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THE HISTORY OF THE
CITY OF NEW YORK

FROM THE FIRST SETTLEMENT
TO THE PRESENT TIME
BY JACOB LEVINSKY
NEW YORK: PUBLISHED BY J. LEVINSKY, 10 NASSAU ST.
1854

The history of the city of New York, from the first settlement to the present time, is a subject of great interest and importance. It is a subject which has attracted the attention of many writers, and which has been the subject of many books. The history of the city of New York is a subject which is of great interest to all who are interested in the history of the United States. It is a subject which is of great importance to all who are interested in the history of the world. The history of the city of New York is a subject which is of great interest to all who are interested in the history of the United States. It is a subject which is of great importance to all who are interested in the history of the world.

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THE
COUNTY COURT RULES,
1875 and 1876,

With Forms and Scales of Costs and Fees;

TOGETHER WITH

THE COUNTY COURTS ACT, 1875,

AND

OTHER RECENT STATUTES AFFECTING THE JURISDICTION
OF THE COUNTY COURTS.

FORMING

A Supplement

TO

DAVIS' COUNTY COURT PRACTICE & EVIDENCE.

LONDON:

BUTTERWORTHS, 7, FLEET STREET,

Two Publishers to the Queen's most excellent Majesty.

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1876.

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PREFACE.

ALTHOUGH the important alterations effected in the County Courts by the Judicature Act, 1873, including the fusion of Law and Equity, were incorporated in the edition of 1874 of the County Court Practice and Evidence, the consolidation of the County Court Orders and Rules, and the issue of New Scales of Fees and Costs, together with very important legislation, render it due to past and future purchasers of the Work to bring down the jurisdiction and procedure to the latest period.

The Table of Contents of this Supplement will indicate the extent and variety of the matter dealt with. The issue of the volume has been delayed by the necessity for including the County Court Rules of 1876.

Practitioners in the County Courts must not, however, give way to a panic and suppose that recent alterations made in these Courts bear any relation in magnitude to the changes just effected in the constitution and procedure of the Courts in Westminster Hall.

The Consolidated Rules and Forms of the County Court are for the most part repetitions of former rules and forms, and the procedure under the Equitable Jurisdiction Act is preserved much as it heretofore existed. The County Courts Act, the Friendly Societies Act, the Agricultural Holdings Act, and the Land Transfer Act, all of the Session of 1875, have far more direct effect on the County Courts than the Judicature Act of the same year.

Notwithstanding the objection that may be urged against a "Supplement," it affords an opportunity for comparing

and examining the precise distinction between the new law and that which is superseded. On the other hand, it is hoped that any disadvantages are in this instance reduced to the minimum amount by the arrangement adopted and the numerous References and full Index to the whole Work.

Temporary, a supplement to any work must be, and it is here only intended to supply an immediate want until time is afforded for the changes to settle down and work smoothly to allow of the preparation of a new edition.

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**THE
COUNTY COURTS ACT, 1875.**

Supplement
TO
**DAVIS' COUNTY COURT PRACTICE
AND EVIDENCE.**

**“THE COUNTY COURTS ACT, 1875.”
(38 & 39 VICT. c. 50.)**

ARRANGEMENT OF CLAUSES.

CLAUSE.

1. In respect of certain demands plaintiff may require defendant to give notice of intention to defend, on pain of judgment by default.
 2. Summonses to witnesses.
 3. How service of summonses by a bailiff may be proved.
 4. Judge may do certain things within or without his circuit.
 5. As to appointment of assessors.
 6. Appeal may be made within eight days without stating special case.
 7. Remuneration of officers under this and other acts passed or to be passed.
 8. Scale of costs to be framed by the judges.
 9. Appointment of high bailiff as registrar to vacate high bailiffship.
 10. As to appeals to the Queen in council in admiralty causes.
 11. In what cases assessors shall be summoned.
 12. Enactments in Schedule (C.) repealed.
 13. This act and other county courts acts to be construed together.
 14. Commencement of act.
- Schedules.
-

An Act to amend the Acts relating to the County Courts.

[2nd August, 1875.]

WHEREAS it is desirable to amend the acts relating to the county courts:

Be it enacted by the Queen's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

1. In any action in a county court for a debt or liquidated money demand, the plaintiff may, at his option, cause to be issued a summons in the ordinary form, or

In respect of certain demands plaintiff may require

defendant to
give notice of
intention to
defend, on pain
of judgment
by default.

(upon filing an affidavit to the effect set forth in the form in Schedule (A.) to this act) a summons in the form or to the effect given in Schedule (B.) to this act, and if such last-mentioned summons be issued it shall be personally served on the defendant, and if the defendant shall not, within sixteen days after service of the summons, inclusive of the day of service, give notice in writing, signed by himself or his attorney, to the registrar of the court from which the summons issued, of his intention to defend, the plaintiff may, after sixteen days and within two months from the day of service, upon proof of its service, or of an order for leave to proceed as if personal service had been effected, have judgment entered up against the defendant for the amount of his claim and costs, such costs to be taxed by the registrar.

The order upon such judgment shall be for payment forthwith, or at such time or times, and by such instalments, if any, as the plaintiff, or his attorney, shall in writing have consented to take at the time of the entry of the plaint or of the judgment.

Where the defendant shall have given notice of defence, the registrar shall, immediately upon the receipt of such notice, send a letter to the plaintiff or his attorney by post, stating therein that the defendant has given notice of his intention to defend, and shall send by post, to both plaintiff and defendant, notice of the day upon which he shall have fixed that the trial shall take place, at least six clear days before the day so fixed.

Where the defendant shall neglect to give such notice of defence, the judge or registrar shall, upon an affidavit disclosing a defence upon the merits, and satisfactorily explaining his neglect, let in the defendant to defend, upon such terms as he may think just.

Where personal service cannot be effected, and the judge or registrar is satisfied by affidavit that reasonable efforts have been made to effect such service, and either that the summons has come to the knowledge of the defendant, or that he wilfully evades service of the same, it shall be law-

ful for the judge or registrar to order that the plaintiff be at liberty to proceed as if personal service had been effected, subject to such conditions as to the judge or registrar may seem fit.

Provided always, that no other summons than a summons in the ordinary form shall, without leave of the judge or registrar, be issued where the amount claimed shall not exceed five pounds, unless the action is for the price, value, or hire of goods which, or some part of which, were sold and delivered or let on hire to the defendant to be used or dealt with in the way of his trade, profession, or calling, and the leave of the judge or registrar shall be given in accordance with regulations to be prescribed by rules of court.

[The above section is substituted for the now repealed sects. 28 and 29 of "The County Courts Act, 1856," 19 & 20 Vict. c. 108, and sect. 2 of "The County Courts Act, 1867," 30 & 31 Vict. c. 142. See Vol. I. pp. 181, 182, and the Consolidated Orders and Rules, Order IV. rr. 5, 6, 7 and 8, and Order VIII. rr. 27—33, *post*.]

2. Either of the parties to an action or any other proceeding may obtain of the registrar of the court summonses to witnesses, with or without a clause requiring the production of books, deeds, papers, and writings in the possession or control of the person summoned as a witness; and such summonses, and any summonses which are now or may be required to be served personally, may, under such regulations as may be prescribed by rules of court, be served by a bailiff of the court or otherwise.

[This section is substituted for the now repealed sect. 85 of "The County Courts Act, 1846," 9 & 10 Vict. c. 95. See Vol. I. p. 225, and the Consolidated Orders and Rules, Order XIV. rr. 1, 2, *post*.]

3. Where any summons or other process of the court is served by a bailiff of any county court, the service may be proved by endorsement on a copy of the summons or process under the hand of such bailiff, showing the fact and mode of the service of such summons or process; and any such bailiff wilfully and corruptly endorsing any false state-

Summonses to witnesses.

How service of summonses by a bailiff may be proved.

ment on the copy of a summons or other process shall be guilty of a misdemeanor, and on conviction thereof shall be removed from his office or employment, and shall incur the same penalties as are or may be incurred by persons convicted of wilful and corrupt perjury.

[This is a new provision, requiring the greatest care on the part of judges and registrars to prevent abuses and irregularities in the proof of service. Order VIII. r. 22, *post*, ought to be strictly observed where applicable. So much of sect. 62 of "The County Courts Act, 1846," 9 & 10 Vict. c. 95, as required the service of a summons or other process to be proved by affidavit is repealed.]

Judge may do certain things within or without his circuit.

4. A judge of county courts shall, whether within the district of any of his courts or not, have jurisdiction to make any order, or exercise, on an *ex parte* application, any authority or jurisdiction in any action or proceeding pending in any of the courts of which he is judge, which, if the same related to an action or proceeding pending in one of her Majesty's superior courts, might be given, made, or exercised by a judge of such last-mentioned courts in chambers, and, with the consent of both parties to an action or proceeding, to hear and decide any matter at any place either within or without any such district.

[This section is also new, and will probably give rise to a variety of questions. As to interlocutory and interim orders, in respect of which it may be assumed the power here given will be chiefly exercised, see the Consolidated Orders and Rules, Order XI. *post*.]

As to appointment of assessors.

5. In any action or proceeding it shall be lawful for the judge, if he think fit, on the application of either party, to summon to his assistance, in such manner as may be prescribed by rules of court, one or more persons of skill and experience in the matter to which the action or proceeding relates, who may be willing to sit with the judge and act as assessors; and their remuneration for so sitting shall be at such rate as may be prescribed by rules of court, and shall be costs in the cause or proceeding, unless otherwise ordered by the judge; but where any person is proposed to be summoned as an assessor, objection to him, either personally or in respect of his qualification, may be taken

by either party in manner to be prescribed by rules of court.

[This is a new provision. See the Consolidated Orders, Order XXXII. *post.* As to assessors on trials in the High Court of Justice, see "The Supreme Court of Judicature Act, 1875" (38 & 39 Vict. c. 77), Schedule, Order XXXVI. r. 2; and as to nautical assessors in admiralty causes, see Vol. II. p. 174, and *infra*, s. 11.]

6. In any cause, suit, or proceeding, other than a proceeding in bankruptcy, tried or heard in any county court, and in which any person aggrieved has a right of appeal, it shall be lawful for any person aggrieved by the ruling, order, direction, or decision of the judge, at any time within eight days after the same shall have been made or given, to appeal against such ruling, order, direction, or decision by motion to the court to which such appeal lies, instead of by special case, such motion to be *ex parte* in the first instance, and to be granted on such terms as to costs, security, or stay of proceedings as to the court to which such motion shall be made shall seem fit. And if the court to which such appeal lies be not then sitting, such motion may be made before any judge of a superior court sitting in chambers. And at the trial or hearing of any such cause, suit, or proceeding, the judge, at the request of either party, shall make a note of any question of law raised at such trial or hearing, and of the facts in evidence in relation thereto, and of his decision thereon, and of his decision of the cause, suit, or proceeding, and he shall, at the expense of any person or persons, being party or parties in any such cause, suit, or proceeding, requiring the same for the purpose of appeal, furnish a copy of such note, or allow a copy to be taken of the same by or on behalf of such person or persons, and he shall sign such copy, and the copy so signed shall be used and received on such motion and at the hearing of such appeal.

Appeal may be made within eight days without stating special case.

[This section does not supersede the appeal by special case. See the provisions of "The Supreme Court of Judicature Act, 1873," as to appeals from county courts, Vol. I. p. 306 (*n*). As to the cases in which a right of

appeal exists in county court actions and suits, see Vol. I. p. 301 *et seq.*, and Vol. II., p. 113. As to appeals in bankruptcy, it is to be observed that the jurisdiction of the London Court of Bankruptcy is not transferred to the High Court of Justice; see "The Supreme Court of Judicature Act, 1875," 38 & 39 Vict. c. 77, s. 9. See the Consolidated Orders, Order XXIX. *post*, as to appeals by special case and by motion.]

Remuneration
of officers
under this and
other acts
passed or to be
passed.

7. The Treasury shall direct whether any and what remuneration shall be allowed to any person performing any duties under this act, or under any act passed heretofore or to be passed, where by such act no remuneration is or shall be given for the performance of duties by officers of the courts; and such remuneration shall be paid out of the fees which the Treasury, with the consent of the Lord Chancellor, is empowered by sect. 79 of "The County Courts Act, 1856," to order to be taken on proceedings which were then authorized or might thereafter be authorized to be taken in the county courts.

This section shall not apply to the City of London Court.

Scale of costs
to be framed
by the judges.

8. The judges of county courts appointed or to be appointed by the Lord Chancellor from time to time to frame rules and orders for regulating the practice of the courts and forms of proceeding therein under the 32nd section of "The County Courts Act, 1856," shall be empowered to frame a scale of costs and charges to be paid to counsel and attorneys with respect to all proceedings which are now, or shall hereafter be, authorized to be taken in such courts, and from time to time to amend such scale; and such scale or amended scale, certified under the hands of such judges, or any three or more of them, shall be submitted to the Lord Chancellor, who from time to time may allow or disallow or alter the same, and the scale or amended scale, so allowed or altered, shall, from a day to be named by the Lord Chancellor, be in force in every county court.

[See the scale framed under this section, *post*.]

9. The appointment of a high bailiff of a county court as registrar of a county court shall vacate the office of high bailiff held by such appointee.

Appointment of high bailiff as registrar to vacate high bailiffship.

[As to the abolition of the office of high bailiff, see Vol. I. pp. 102, 103, 118.]

10. There shall be no appeal from a decree or order of the High Court of Admiralty of England made on appeal from the county court when such decree or order affirms the judgment of the county court, except by express permission of the judge of the High Court of Admiralty. When upon an appeal the High Court of Admiralty alters the judgment of the county court no leave to appeal to her Majesty in council shall be necessary.

As to appeals to the Queen in council in admiralty causes.

[This section is substituted for the now repealed sect. 29 of "The County Courts Admiralty Jurisdiction Act, 1868." See as to appeal in admiralty cases, Vol. II. p. 182.]

11. Where an admiralty cause has been heard in the county court with the assistance of nautical assessors, elder brethren of the Trinity House shall be summoned to assist on the hearing of an appeal by the High Court of Admiralty if either party shall require the same, and the judge of the high court shall be of opinion that the assistance of the elder brethren is necessary or desirable.

In what cases assessors shall be summoned.

[As to nautical assessors in admiralty causes in the county court, see Vol. II. p. 174.]

12. The several enactments specified in Schedule (C.) to this act are hereby repealed to the extent mentioned in the third column of the said schedule; but this repeal shall not affect the course of any proceeding taken before such repeal.

Enactments in Schedule (C.) repealed.

13. This act and "The County Courts Act, 1846," and the several acts altering or amending the same, shall be construed together as one act, and this act may be cited as "The County Courts Act, 1875."

This act and other county courts acts to be construed together.

14. This act shall come into operation on the second day of November next after the passing hereof.

Commencement of act.

SCHEDULE (A.)

Affidavit.

I, A. B., of, &c., make oath and say, that C. D., of [*address, occupation, and description*] is indebted to me in the sum of for
[*add, where the action is brought for a demand not exceeding five pounds*, and I further say that the were sold and delivered [*or let on hire*] to the said C. D. to be used or dealt with in the way of his trade [*or profession or calling*] of a].
A. B.

Sworn at, &c.

NOTE.—[*When affidavit is made by a clerk alter the form accordingly, and add the following: That I am a person in the employ of A. B., and that I am duly authorized by him to make this affidavit, and that it is within my own knowledge that the aforesaid debt was incurred, and for the consideration above stated, and that such debt, to the best of my knowledge and belief, still remains unpaid and unsatisfied.*]

6

SCHEDULE (B.)

Summons to obtain Judgment by Default on Personal Service.

No. [*of plaint*].

In the [*title of court issuing summons*].

[*Seal.*] Between A. B. [*address and description*], Plaintiff,
and

C. D. [*address and description*], Defendant.

TAKE NOTICE, That, unless within sixteen days after the personal service of this summons on you, inclusive of the day of such service, you return to the registrar of this court at [*place of office*] the notice given below, dated and signed by yourself or your attorney, you will not afterwards be allowed to make any defence to the claim which the plaintiff makes on you, as per margin, the particulars of which are hereunto annexed; but the plaintiff may, without giving any further proof in support of such claim than the affidavit filed in court herein, proceed to judgment and execution. If you return such notice to the registrar within the time specified, the registrar will send you by post notice of the day upon which the action will be tried.

	£.	s.	d.
Claim
Fee for plaint
Attorney's costs (where payable)
Total amount of debt and costs }

Dated this day of 18 .

____ Registrar of the Court.

To the defendant.

See below.

*Notice of intention to defend or to object to the jurisdiction of the Court.*No. [of *plaint*].In the [title of *court*].

A. B. v. C. D.

I intend to defend this cause [or to object to the jurisdiction of the court].

Dated this day of 18 .

* Defendant.

[To be endorsed on the Summons.]

If you pay the debt and costs, as per margin on the other side, into the registrar's office, within sixteen days after the service of this summons, and without returning the notice of intention to defend, you will avoid further costs.

If you do not return the notice of intention to defend, but allow judgment against you by default, you will *save half the hearing fee*, and the order upon such judgment will be to pay the debt and costs forthwith [or by instalments, *to be specified as in plaintiff's written consent*].

If you admit a part only of the claim, you must return the notice of intention to defend within the time specified on the summons; and you may, by paying into the registrar's office at the same time the amount so admitted, together with costs proportionate to the amount you pay in, avoid further costs, unless the plaintiff at the trial shall prove a claim against you exceeding the sum so paid.

If you intend to dispute the plaintiff's claim on any of the following grounds,—

1. That the plaintiff owes you a debt which you claim should be set off against it ;
2. That you were under twenty-one when the debt claimed was contracted ;
3. That you were then, or are now, a married woman ;
4. That the debt claimed is more than six years old ;
5. That you have been discharged from the plaintiff's claim under a bankrupt or insolvent act ;

you must, in addition to the notice of intention to defend, give to the registrar notice of such special defence; and such last-mentioned notice must contain the particulars required by the rules of the court; and you must deliver to the registrar as many copies of such notice as there are plaintiffs, and an additional copy for the use of the court. If your defence be a set-off, you must, with the notice thereof, also deliver to the registrar a statement of the

* Here must be signed the name of defendant or of his attorney, and in the last case the words "attorney for" must be added.

particulars thereof. If your defence be a tender, you must pay into court, before or at the trial, the amount tendered.

If you give such notice of intention to defend within the time specified, you may, *if the debt exceeds five pounds*, have the case tried by a jury, on giving notice in writing at the registrar's office three clear days before the trial, and on payment of five shillings for the use of such jury.

SCHEDULE (C).

Reference to Act.	Title of Act.	Extent of Repeal.
9 & 10 Vict. c. 95 ..	An Act for the more easy recovery of small debts and demands in England.	So much of section sixty-two (<i>a</i>), as requires the service of a summons or other process to be proved by affidavit, and the whole of sections eighty-five (<i>b</i>) and one hundred and three (<i>c</i>).
19 & 20 Vict. c. 108 ..	An Act to amend the Acts relating to County Courts.	The whole of the sections numbered respectively twenty-eight (<i>d</i>) . and twenty-nine (<i>e</i>).
29 & 30 Vict. c. 4 (<i>f</i>)	An Act for the abolition of the offices of Treasurer and of High Bailiff of County Courts as vacancies shall occur, and to provide for the payment of future Registrars of County Courts.	The whole of sections six and seven (<i>g</i>).
30 & 31 Vict. c. 142 ..	An Act to amend the Acts relating to the jurisdiction of the County Courts.	The whole of sections two (<i>h</i>) and thirty-two (<i>i</i>).
31 & 32 Vict. c. 71 ..	An Act for conferring Admiralty jurisdiction on the County Courts.	The whole of section twenty-nine (<i>k</i>).

(*a*) See Vol. I. p. 173.
(*b*) *Id.* p. 225.
(*c*) *Id.* p. 355, n.
(*d*) *Id.* p. 181.
(*e*) *Id.* p. 182.

(*f*) A misprint for c. 14.
(*g*) See Vol. I. p. 25.
(*h*) *Id.* p. 185.
(*i*) *Id.* p. 48, n.
(*k*) See Vol. II. p. 182.

THE
LEGISLATION OF 1874-5
AFFECTING COUNTY COURTS.

THE BUILDING SOCIETIES ACT, 1874.

(37 & 38 VICT. C. 42.)

THIS act, consolidating and amending the law relating to building societies (*a*), empowers any number of persons to establish a society (and obtain from the registrar of friendly societies a certificate of incorporation of such society), either terminating or permanent, for the purpose of raising by the subscription of the members a stock or fund for making advances to members out of the funds of the society, upon security of freehold, copyhold or leasehold estate by way of mortgage.

The act confers considerable powers on county courts in reference to these societies, using the general term "the court," which, so far as regards England, is defined by sect. 4 to mean "the county court of the district in which the chief office or place of meeting for the business of the society is situate."

The powers of the county courts are contained in the following sections :—

Sect. 16. "The rules of every society hereafter established under this act shall set forth,—

Matters to be set forth in the rules.

1. The name of the society, and chief office or place of meeting for the business of the society :
2. The manner in which the stock or funds of the society are to be raised, the terms upon which paid-up shares (if any) are to be issued and repaid, and whether preferential shares are to be issued, and, if so, within what limits, if any ; and whether the society intends to avail itself of the borrowing powers contained in this act, and, if so, within what limits, not exceeding the limits prescribed by this act :
3. The purposes to which the funds of the society are to be applied, and the manner in which they are to be invested :
4. The terms upon which shares may be withdrawn, and upon which mortgages may be redeemed :
5. The manner of altering and rescinding the rules of the society, and of making additional rules :
6. The manner of appointing, remunerating, and removing the board of directors or committee of management, auditors, and other officers :
7. The manner of calling general and special meetings of the members :
8. Provision for an annual or more frequent audit of the accounts, and inspection by the auditors of the mortgages and other securities belonging to the society :
9. Whether disputes between the society and any of its members, or

(*a*) This act was amended, but not on any matter requiring notice here, by the Building Societies Act, 1875 (38 & 39 Vict. c. 9).

any person claiming by or through any member, or under the rules, shall be settled by reference to *the court*, or to the registrar (*b*), or to arbitration :

10. Provision for the device, custody, and use of the seal of the society, which shall in all cases bear the registered name thereof :
11. Provision for the custody of the mortgage deeds and other securities belonging to the society :
12. The powers and duties of the board of directors or committee of management and other officers :
13. The fines and forfeitures to be imposed on members of the society :
14. The manner in which the society, whether terminating or permanent, shall be terminated or dissolved."

Evidence of registration.

Sect. 20. " Any certificate of incorporation or of registration, or other document relating to a society under this act, purporting to be signed by the registrar, shall, in the absence of any evidence to the contrary, be received by *the court*, and by all courts of law and equity and elsewhere, without proof of the signature ; and a printed copy of the rules of a society, certified by the secretary or other officer of the society to be a true copy of its registered rules, shall, in the absence of any evidence to the contrary, be received as evidence of the rules."

Rules to be binding on members and others.

Sect. 21. " The rules of a society under this act shall be binding on the several members and officers of the society, and on all persons claiming on account of a member, or under the rules, all of whom shall be deemed and taken to have full notice thereof."

Officers to account.

Sect. 24. " Every such officer, his executors or administrators, shall, upon demand made, or notice in writing, given or left at his last or usual place of residence, give in his account as may be required by the board of directors or committee of management of the society, to be examined and allowed or disallowed by them, and shall, on the like demand or notice, pay over all the moneys remaining in his hands, and deliver all securities and effects, books, papers, and property of the society in his hands or custody, to such person as the society appoint ; and in case of any neglect or refusal to deliver such account, or to pay over such moneys, or to deliver such securities and effects, books, papers, and property, in manner aforesaid, the society may sue upon the bond, or may apply to *the court*, who may proceed thereupon in a summary way, and make such order thereon as to the court in its discretion shall seem just, which order shall be final and conclusive."

Proceedings necessary for the termination or dissolution of a society.

Sect. 32. " A society under this act may terminate or be dissolved—

1. Upon the happening of any event declared by its rules to be the termination of the society.
2. By dissolution in manner prescribed by its rules.
3. By dissolution with the consent of three-fourths of the members, holding not less than two-thirds of the number of shares in the society, testified by their signatures to the instrument of dissolution. The instrument of dissolution shall set forth—
 - (a.) The liabilities and assets of the society in detail ;
 - (b.) The number of members, and the amount standing to their credit in the books of the society ;

(b) To prevent misconception it may be well to state that the registrar mentioned in this act is the registrar

of friendly societies, and not the registrar of a county court.

- (c.) The claims of depositors and other creditors, and the provision to be made for their payment;
- (d.) The intended appropriation or division of the funds and property of the society;
- (e.) The names of one or more persons to be appointed trustees for the special purpose, and their remuneration.

Alterations in the instrument of dissolution may be made with the like consent, testified in the same manner. The instrument of dissolution and all alterations therein shall be registered in the manner provided for the registration of rules, and shall be binding upon all the members of the society.

4. By winding-up, either voluntarily under the supervision of *the court* or *by the court*, if the court shall so order, on the petition of any member authorized by three-fourths of the members present at a general meeting of the society specially called for the purpose to present the same on behalf of the society, or on the petition of any judgment creditor for not less than fifty pounds, but not otherwise. General orders for regulating the proceedings of the court under this section may be from time to time made by the authority for the time being empowered to make general orders for the court (c).

Notice of the commencement and termination of every dissolution or winding-up shall be sent to the registrar, and registered by him."

Sect. 34. "Where the rules of a society under this act direct disputes to be referred to arbitration, arbitrators shall be named and elected in the manner such rules provide, or, if there be no such provision, at the first general meeting of the society, none of the said arbitrators being beneficially interested, directly or indirectly, in its funds; of whom a certain number, not less than three, shall be chosen by ballot in each such case of dispute, the number of the said arbitrators and mode of ballot being determined by the rules of the society; the names of such arbitrators shall be duly entered in the minute book of the society, and, in case of the death or refusal or neglect of any of the said arbitrators to act, the society, at a general meeting, shall name and elect an arbitrator to act in the place of the arbitrator dying, or refusing or neglecting to act; and whatever award shall be made by the arbitrators or the major part of them, according to the true purport and meaning of the rules of the society, shall determine the dispute; and should either of the parties to the dispute refuse or neglect to comply with or conform to such award within a time to be limited therein, *the court*, upon good and sufficient proof being adduced of such award having been made, and of the refusal of the party to comply therewith, shall enforce compliance with the same upon the petition of any person concerned. Where the parties to any dispute arising in a society under this act agree to refer the dispute to the registrar, or where the rules of the society direct disputes to be referred to the registrar, the award of the registrar shall have the same effect as that of arbitrators."

Determina-
tion of dis-
putes by arbi-
tration.

Sect. 35. "*The court* may hear and determine a dispute in the following cases:—

1. If it shall appear to the court, upon the petition of any person concerned, that application has been made by either party to

Determina-
tion of dis-
putes by
court.

(c) See Consolidated Orders and Rules, Order XXXIX., *post*.

the dispute to the other party, for the purpose of having the dispute settled by arbitration under the rules of the society, and that such application has not within forty days been complied with, or that the arbitrators have refused or for a period of twenty-one days have neglected to make any award.

2. Where the rules of the society direct disputes to be referred to the court or to justices."

Determina-
tion to be
final.

Sect. 36. "Every determination by arbitrators or *by the court* or by the registrar under this act of a dispute shall be binding and conclusive on all parties, and shall be final to all intents and purposes, and shall not be subject to appeal, and shall not be removed or removable into any court of law, or restrained or restrainable by the injunction of any court of equity; provided always, that the arbitrators, or the registrar, *or the court*, as the case may be, may, at the request of either party, state a case for the opinion of the Supreme Court of Judicature on any question of law, and shall have power to grant to either party to the dispute such discovery, as to documents and otherwise, as might now be granted by any court of law or equity, such discovery to be made on behalf of the society by such officer of the society as the arbitrators, registrar, or court may determine."

THE ALKALI ACT, 1874.

(37 & 38 VICT. c. 43.)

This Act amends "The Alkali Act, 1863," noticed Vol. I. p. 54.

MARRIED WOMEN'S PROPERTY ACT (1870) AMENDMENT ACT, 1874.

(37 & 38 VICT. c. 50.)

An Act to amend the Married Women's Property Act (1870).
[30th July, 1874.]

The act recites that—"It is not just that the property which a woman has at the time of her marriage should pass to her husband, and that he should not be liable for her debts contracted before marriage, and the law as to the recovery of such debts requires amendment;" and enacts:—

Husband and
wife may be
jointly sued
for her debts
before mar-
riage.

Sect. 1. "So much of 'The Married Women's Property Act, 1870,' as enacts that a husband shall not be liable for the debts of his wife contracted before marriage (*d*) is repealed so far as respects marriages which shall take place after the passing of this act, and a husband and

(*d*) See this provision of the act referred to, Vol. I. p. 630; see also pp. 525, 526.

wife married after the passing of this act may be jointly sued for any such debt."

Sect. 2. "The husband shall, in such action and in any action brought for damages sustained by reason of any tort committed by the wife before marriage or by reason of the breach of any contract made by the wife before marriage, be liable for the debt or damages respectively to the extent only of the assets hereinafter specified; and in addition to any other plea or pleas may plead that he is not liable to pay the debt or damages in respect of any such assets as hereinafter specified; or, confessing his liability to some amount, that he is not liable beyond what he so confesses; and if no such plea is pleaded the husband shall be deemed to have confessed his liability so far as assets are concerned."

Extent to which husband liable.

Sect. 3. "If it is not found in such action that the husband is liable in respect of any such assets, he shall have judgment for his costs of defence, whatever the result of the action may be against the wife."

If husband without assets he shall have judgment for costs.

Sect. 4. "When a husband and wife are sued jointly, if by confession or otherwise it appears that the husband is liable for the debt or damages recovered, or any part thereof, the judgment to the extent of the amount for which the husband is liable shall be a joint judgment against the husband and wife, and as to the residue, if any, of such debt or damages, the judgment shall be a separate judgment against the wife."

Joint and separate judgment against husband and wife for debt.

Sect. 5. "The assets in respect of and to the extent of which the husband shall in any such action be liable are as follows:

Assets for which husband liable.

(1.) The value of the personal estate in possession of the wife, which shall have vested in the husband:

(2.) The value of the choses in action of the wife which the husband shall have reduced into possession, or which with reasonable diligence he might have reduced into possession:

(3.) The value of the chattels real of the wife which shall have vested in the husband and wife:

(4.) The value of the rents and profits of the real estate of the wife which the husband shall have received, or with reasonable diligence might have received:

(5.) The value of the husband's estate or interest in any property, real or personal, which the wife in contemplation of her marriage with him shall have transferred to him or to any other person:

(6.) The value of any property, real or personal, which the wife in contemplation of her marriage with the husband shall with his consent have transferred to any person with the view of defeating or delaying her existing creditors:

Provided that when the husband after marriage pays any debt of his wife, or has a judgment *bond fide* recovered against him in any such action as is in this act mentioned, then to the extent of such payment or judgment the husband shall not in any subsequent action be liable."

Sect. 6. "This act shall not extend to Scotland."

Extent of act.

Sect. 7. "This act may be cited as 'The Married Women's Property Act (1870) Amendment Act, 1874.'"

Short title.

THE INFANTS RELIEF ACT, 1874.

(37 & 38 VICT. c. 62.)

The act to amend the law as to the contracts of infants recites that "it is expedient to amend the law as to the contracts of infants, and as to the ratification made by persons of full age of contracts made by them during infancy, and as to necessities" (*e*), and enacts,—

Contracts by infants, except for necessities, to be void.

Sect. 1. "All contracts, whether by specialty or by simple contract, henceforth entered into by infants for the repayment of money lent or to be lent, or for goods supplied or to be supplied (other than contracts for necessities), and all accounts stated with infants, shall be absolutely void: provided always, that this enactment shall not invalidate any contract into which an infant may, by any existing or future statute, or by the rules of common law or equity, enter, except such as now by law are voidable."

No action to be brought on ratification of infant's contract.

Sect. 2. "No action shall be brought whereby to charge any person upon any promise made after full age to pay any debt contracted during infancy, or upon any ratification made after full age of any promise or contract made during infancy, whether there shall or shall not be any new consideration for such promise or ratification after full age."

Short title.

Sect. 3. "This act may be cited as 'The Infants Relief Act, 1874.'"

THE ATTORNEYS AND SOLICITORS ACT, 1874.

(37 & 38 VICT. c. 68.)

Sect. 12 of this act imposes a penalty on any person "who wilfully and falsely pretends to be or takes or uses any name, title, addition, or description implying that he is duly qualified to act as an attorney or solicitor, or that he is recognized by law as so qualified;" and further enacts that "no costs, fee, reward or disbursement on account of or in relation to any act or proceeding done or taken by any person who acts as an attorney or solicitor, without being duly qualified so to act, shall be recoverable in any action, suit or matter by any person or persons whomsoever."

THE VENDOR AND PURCHASER ACT, 1874.

(37 & 38 VICT. c. 78.)

The provisions of this act must be borne in mind in proceedings to enforce claims for compensation or otherwise in relation to contracts of sale of lands. As the act does not relate specially to county courts the provisions are not given here (*f*).

(*e*) As to the contracts of infants, see Vol. I. pp. 519, 678, 753, 772.

(*f*) Sections 5 and 7 of this act are

repealed by "The Land Transfer Act, 1875" (38 & 39 Vict. c. 87), noticed *post*, p. 36.

BIRTHS AND DEATHS REGISTRATION ACT, 1874.

(37 & 38 VICT. c. 88.)

This act, which amends the law relating to the registration of births and deaths in England, and consolidates the law respecting the registration of births and deaths at sea, contains the following provision as to the evidence of registers (as to which, in general, see Vol. I. pp. 487 (*n*), 526, 527):—

Sect. 38. "An entry or certified copy of an entry of a birth or death in a register, under the Births and Deaths Registration Acts, 1836 to 1874, or in a certified copy of such a register, shall not be evidence of such birth or death, unless such entry either purports to be signed by some person professing to be the informant and to be such a person as is required by law at the date of such entry to give to the registrar information concerning such birth or death, or purports to be made upon a certificate from a coroner, or in pursuance of the provisions of this act with respect to the registration of births and deaths at sea" (*g*).

INTESTATES' WIDOWS AND CHILDREN ACT
EXTENSION.

(38 & 39 VICT. c. 27.)

This act, reciting that "it is desirable that the provisions of the act of thirty-six and thirty-seven Victoria, chapter fifty-two, intitled 'An Act for the relief of Widows and Children of Intestates where the personal estate is of small value,' should be made applicable to the surviving children of a poor widow who dies intestate," enacts that:—

Sect. 1. "Where the whole estate and effects of an intestate widow shall not exceed in value the sum of one hundred pounds, any one or more of her children, if they shall reside at a distance exceeding three miles from the registry of the Court of Probate having jurisdiction in the matter, may apply to the registrar of the county court within the district in which the intestate had her fixed place of abode at the time of her death, and on compliance with the regulations prescribed in the said act of thirty-six and thirty-seven Victoria shall be entitled to the benefits in that case made and provided by the said act, and the schedule thereunto annexed."

Extension of
act of 36 & 37
Vict. c. 52, to
children of
poor intestate
widows.

Sect. 2. "This act shall be read and construed along with and as part of the recited act."

Construction
of the act.

See the recited act, 36 & 37 Vict. c. 52, *ante*, Vol. I. p. 46.

(*g*) See the rest of the section as to evidence of birth of children.

SUPPLEMENT TO DAVIS' COUNTY COURTS.

THE PUBLIC HEALTH ACT, 1875.

(38 & 39 VICT. c. 55.)

This act enacts that—

Sect. 261. "Proceedings for the recovery of demands below fifty pounds, which local authorities are empowered to recover in a summary manner, may, at the option of the local authority, be taken in the county court as if such demands were debts within the cognizance of such courts."

As to legal proceedings generally, see Part VII. of the act, comprising sects. 251—269.

THE FRIENDLY SOCIETIES ACT, 1875.

(38 & 39 VICT. c. 60.)

This act, consolidating and amending the law relating to friendly and other societies, and having operation from the 1st January, 1876, repeals from that date, among other provisions, the 18 & 19 Vict. c. 63, the foundation of the county court jurisdiction as heretofore existing, described Vol. II. p. 130 (*h*).

The new act provides a central registry office, constituted of a chief registrar and one or more assistant registrars of friendly societies, for England.

"The central office shall exercise all the functions and powers which are now by law vested in the registrar of friendly societies or the registrar of building societies for England, or as respects loan societies, building societies, and societies instituted for purposes of science, literature, or the fine arts, in the barrister appointed to certify the rules of saving banks or friendly societies, and shall be entitled to receive all statutory fees payable to such registrar or barrister, and all enactments relating to such registrar or barrister, so far as respects such societies as aforesaid, shall be construed as applying to the central office." (Sect. 10, sub-sect. (4)).

Sect. 8. "The following societies may be registered under this act; viz. :

(1.) Societies (herein called friendly societies) established to provide by voluntary subscriptions of the members thereof, with or without the aid of donations—

For the relief or maintenance of the members, their husbands, wives, children, fathers, mothers, brothers or sisters, nephews or nieces, or wards being orphans, during sickness or other infirmity, whether

(*h*) The repeal includes the whole of the following acts:—18 & 19 Vict. c. 68—An Act to consolidate and amend the Law relating to Friendly Societies; 21 & 22 Vict. c. 101—To amend the 18 & 19 Vict. c. 63, relating to Friendly Societies; 23 Vict. c. 13—To prevent the Members of Benefit Societies from forfeiting their

Interest therein by being enrolled in Yeomanry or Volunteer Corps; 23 & 24 Vict. c. 58—An Act to amend the 18 & 19 Vict. c. 63; 29 Vict. c. 34—To give further Facilities for the Establishment of Societies for the Assurance of Cattle and other Animals.

bodily or mental, in old age (which shall mean any age after fifty) or in widowhood, or for the relief or maintenance of the orphan children of members during their minority ;

For insuring money to be paid on the birth of a member's child, or on the death of a member, or for the funeral expenses of the husband, wife, or child of a member, or of the widow of a deceased member, or, as respects persons of the Jewish persuasion, for the payment of a sum of money during the period of confined mourning ;

For the relief or maintenance of the members when on travel in search of employment, or when in distressed circumstances, or in case of shipwreck, or loss or damage of or to boats or nets ;

For the endowment of members or nominees of members at any age ;

For the insurance against fire to any amount not exceeding fifteen pounds of the tools or implements of the trade or calling of the members ;

Provided that no society (except as aforesaid) which contracts with any person for the assurance of an annuity exceeding fifty pounds per annum, or of a gross sum exceeding two hundred pounds, shall be registered under this act :

(2.) Societies (herein called cattle insurance societies) for the insurance to any amount against loss by death of neat cattle, sheep, lambs, swine, and horses from disease or otherwise: Cattle insurance societies.

(3.) Societies for any benevolent or charitable purpose (herein called benevolent societies): Benevolent societies.

(4.) Societies (herein called working men's clubs) for purposes of social intercourse, mutual helpfulness, mental and moral improvement, and rational recreation: Working men's clubs.

(5.) Societies for any purpose which the Treasury may authorize as a purpose to which the powers and facilities of this act ought to be extended (herein called 'specially authorized societies'). Specially authorized societies.

Sect. 9. "The Treasury may limit the application of this act, as respects specially authorized societies, to such of the provisions herein contained as may be specified in the authority for registering any such society." Limited application of act.

No society can be registered which does not consist of seven persons at least.

For the purpose of registry an application to register the society, signed by seven members and the secretary, and written or printed copies of the rules, together with a list of the names of the secretary and of every trustee or other officer authorized to sue and be sued on behalf of the society, must be sent to the registrar. (Sect. 11, sub-sects. (1) (2)).

"The registrar, on being satisfied that a society has complied with the provisions as to registry in force under this act, shall issue to such society an acknowledgment of registry, which shall specify the designation of the society, according to the classification herein set forth." (Id., sub-sect. 7.)

"The acknowledgment of registry shall be conclusive evidence that the society therein mentioned is duly registered, unless it be proved that the registry of the society has been suspended or cancelled." (Id., sub-sect. 10).

Rules and amendments.

Provisions to be contained in rules.

Amendments to be registered.

Provision applicable to amendments.

Acknowledgment of registry of amendments.

Copies of rules to be delivered on demand.

Delivery of untrue rules.

Sect. 13. "With respect to the rules of societies the following provisions shall have effect:

(1.) The rules of every society sent for registry shall, according to the class in which the society is to be registered, contain provisions in respect of the several matters mentioned in the second schedule to this act.

(2.) No amendment of a rule made by a registered society shall be valid until the same has been registered under this act, for which purpose copies of the same, signed by three members and the secretary, shall be sent to the registrar.

(3.) The provision herein contained as to appeals from a refusal of registry shall apply to amendments of rules.

(4.) The registrar shall, on being satisfied that any amendment of a rule is not contrary to the provisions of this act, issue to the society an acknowledgment of registry of the same, which shall be conclusive evidence that the same is duly registered.

(5.) A copy of the rules of a registered society shall be delivered by the society to every person on demand, on payment of a sum not exceeding one shilling.

(6.) If any person, with intent to mislead or defraud, gives to any other person a copy of any rules, laws, regulations or other documents, other than the rules for the time being registered under this act, on the pretence that the same are existing rules of a registered society, or that there are no other rules of such society, or gives to any person a copy of any rules on the pretence that such rules are the rules of a registered society when the society is not registered, the person so offending shall be deemed guilty of a misdemeanor."

The following are the matters to be provided for by the rules of societies registered under the act:—

"1. The name and place of office of the society.

2. The whole of the objects for which the society is to be established, the purposes for which the funds thereof shall be applicable, the terms of admission of members, the conditions under which any member may become entitled to any benefit assured thereby, and the fines and forfeitures to be imposed on any member.

3. The mode of holding meetings and right of voting, and the manner of making, altering or rescinding rules.

4. The appointment and removal of a committee of management (by whatever name), of a treasurer and other officers, and of trustees, and in the case of a society with branches, the composition of the central body, and the conditions under which a branch may secede from the society.

5. The investment of the funds, the keeping of the accounts, and the audit of the same once a year at least.

6. Annual returns to the registrar of the receipts, funds, effects and expenditure and number of members of the society.

7. The inspection of the books of the society by every person having an interest in the funds of the society.

8. The manner in which disputes between the society and any of its members, or any person claiming through a member or under the rules, shall be settled (i).

(i) Schedule II. In the case of friendly societies and industrial insurance companies the rules must contain the provision of sect. 30, sub-sect.

10 (*post*, pp. 31, 32); for the settlement of disputes by the county court, see sub-sect. 13 of that section, noticed *post*, p. 32.

9. In case of dividing societies, a provision for meeting all claims upon the society existing at the time of division before any such division takes place.

And also in the case of friendly and cattle insurance societies:—

1. The keeping separate accounts of all moneys received or paid on account of every particular fund or benefit assured for which a separate table of contributions payable shall have been adopted, and the keeping separate account of the expenses of management, and of all contributions on account thereof.

2. (Except as to cattle insurance societies) returns every five years to the registrar of the sickness and mortality of the society.

3. (Except as to cattle insurance societies) a valuation once at least in every five years of the assets and liabilities of the society, including the estimated risks and contributions.

4. The voluntary dissolution of the society by consent of not less than five-sixths in value of the members, and of every person for the time being entitled to any benefit from the funds of the society, unless his claim be first satisfied or adequately provided for.

5. The right of one-fifth of the total number of members, or of one hundred members in the case of a society of one thousand members and not exceeding five thousand, or of five hundred members in the case of a society of more than ten thousand members, to apply to the chief registrar, or in case of societies registered and doing business exclusively in Ireland or Scotland to the assistant registrar for Ireland or Scotland, for an investigation of the affairs of the society, or for winding up the same."

Among other duties and obligations every registered society shall—

"Allow any member or person having an interest in the funds of the society to inspect the books at all reasonable hours at the registered office of the society, or at any place where the same are kept, except that no such member or person unless he be an officer of the society, or be specially authorized by a resolution of the society to do so, shall have the right to inspect the loan account of any other member without the written consent of such member:

"Supply gratuitously every member or person interested in the funds of the society, on his application, with a copy of the last annual return of the society for the time being" (*k*):

Sect. 15. "Registered societies shall be entitled to the following privileges:

(1.) No society or meeting of a society shall be affected by any of the provisions of the acts of the thirty-ninth George the Third, chapter seventy-nine, or the fifty-seventh George the Third, chapter nineteen, if in such society or at such meeting no business is transacted other than that which directly and immediately relates to the objects of the society as declared in the registered rules thereof, but such society and all officers of the same shall, on request in writing by two justices of the peace, give full information to such justices of the nature, objects, proceedings, and practices of the society, in default whereof the provisions of the acts in this section referred to shall, so far as applicable, be in force in respect of such society.

Privileges of societies.

Corresponding societies acts, &c. not to affect registered societies.

(*k*) Sect. 14, sub-sect. 1 (*g*), (*k*).

Exemption
from stamp
duty.

(2.) Stamp duty shall not be chargeable upon any of the following documents :

- (a.) Power, warrant, or letter of attorney, granted by any person as trustee for the transfer of any money of the society invested in his name in the public funds :
- (b.) Order or receipt for money contributed to or received from the funds of the society by virtue of its rules or of this act :
- (c.) Bond given to or on account of the society, or by the treasurer or other officer thereof :
- (d.) Draft or order, or form of policy, or appointment or revocation of appointment of agent, or other document required or authorized by this act, or by the rules of the society.

Power of no-
mination for
sums not ex-
ceeding fifty
pounds.

(3.) A member of a society (other than a benevolent society or working men's club), not being under the age of sixteen years, may, by writing under his hand delivered at or sent to the registered office of the society, nominate any person, not being an officer or servant of the society, to whom any moneys payable by the society on the death of such member, not exceeding fifty pounds, shall be paid at his decease, and may from time to time revoke or vary such nomination by a writing under his hand similarly delivered or sent ; and on receiving satisfactory proof of the death of a nominator, the society shall pay to the nominee the amount due to the deceased member, not exceeding the sum aforesaid.

Distribution
of sums not
exceeding
fifty pounds.

(4.) If any member of a society, entitled from the funds thereof to a sum not exceeding fifty pounds, dies intestate and without having made any nomination under this act which remains unrevoked at his death, such sum shall be payable, without letters of administration, to the person who appears to a majority of the trustees, upon such evidence as they may deem satisfactory, to be entitled by law to receive the same.

Payments to
persons appa-
rently en-
titled valid.

(5.) Whenever the society, after the decease of any member, pays any sum of money to the person who at the time appears to the trustees to be entitled under this section, the payment is valid and effectual against any demand made upon the trustees or the society by any other person.

When trus-
tees are ab-
sent, &c. re-
gistrar may
order stock to
be trans-
ferred.

(6.) When any person, being or having been a trustee of a society, and whether appointed before or after the legal establishment thereof, in whose name any stock belonging to such society transferable at the Bank of England or Bank of Ireland is standing, either jointly with another or others, or solely, is absent from England or Ireland respectively, or becomes bankrupt, or files any petition or executes any deed for liquidation of his affairs by assignment or arrangement, or for composition with his creditors, or becomes a lunatic, or is dead, or has been removed from his office of trustee, or if it be unknown whether such person is living or dead, the chief registrar, on application in writing from the secretary and three members of the society, and on proof satisfactory to him, may direct the transfer of the stock into the names of any other persons as trustees for the society ; and such transfer shall be made by the surviving or continuing trustees, and if there be no such trustee, or if such trustees refuse or be unable to make such transfer, and the chief registrar so direct, then by the accountant general or deputy or assistant accountant general of the Bank of England or Bank of Ireland, as the case may be ; and the governors and companies of the Bank of England and Bank of Ireland respectively are hereby indemnified for

anything done by them or any of their officers in pursuance of this provision against any claim or demand of any person injuriously affected thereby.

(7.) Upon the death, or bankruptcy, or insolvency of any officer of a society having in his possession by virtue of his office any money or property belonging to the society, or if any execution, attachment, or other process be issued, or action or diligence raised against such officer or against his property, his heirs, executors, or administrators, or trustee in bankruptcy or insolvency, or the sheriff or other person executing such process, or the party using such action or diligence respectively shall, upon demand in writing of the trustees of the society, or any two of them, or any person authorized by the society, or by the committee of management of the same, to make such demand, pay such money and deliver over such property to the trustees of the society in preference to any other debts or claims against the estate of such officer.

Priority on death, bankruptcy, &c. of officer.

Bankruptcy or insolvency in the present section includes liquidation of a debtor's affairs by arrangement in England, cessio bonorum of a debtor in Scotland, and a petition for arrangement with creditors in Ireland; and a trustee in bankruptcy or insolvency includes an assignee in Ireland and a judicial factor in Scotland.

(8.) A person under the age of twenty-one but above the age of sixteen may be a member of a society, unless provision be made in the rules thereof to the contrary, and may, subject to the rules of the society, enjoy all the rights of a member (except as herein provided), and execute all instruments and give all acquittances necessary to be executed or given under the rules, but shall not be a member of the committee of management, trustee, manager, or treasurer of the society.

Membership of minors.

Provided as follows :

(a.) Societies and branches, consisting wholly of members of any age under sixteen years, but exceeding three years, may be allowed to register under this act, subject to such regulations as may be made in that behalf :

(b.) No rule or practice in force at the commencement of this act for the admission of members under sixteen years of age shall be deemed contrary to any express provision of this act as respects any society already registered.

(9.) For the purpose of this act a certificate of the birth or death of any member of or person insured or to be insured with a registered friendly society shall be given under his hand by the registrar of births or deaths, or other person having the care of the register of births or deaths, in which such birth or death is entered, for a sum not exceeding one shilling, in place of all fees or payments in respect of the same, on application being made for the same in such form and under such regulations as shall be approved of by the registrar general of births, deaths and marriages for England, Scotland, and Ireland respectively.

Limitation of cost of certificates of birth or death.

(10.) A society may subscribe out of its funds to any hospital, infirmary, charitable or provident institution, any annual or other sum which may be necessary to secure to members of the society and their families the benefits of such hospital, infirmary, or other institution, according to its rules."

Society may subscribe to hospitals.

Section 16 provides for the investment of the funds of registered societies, and the holding of lands.

(Sub-sect. 3.) "All property belonging to a society, whether acquired before or after the same is registered, shall vest in the trustees for the

Property of society, how vested.

SUPPLEMENT TO DAVIS' COUNTY COURTS.

time being of the society, for the use and benefit of the society and the members thereof, and of all persons claiming through the members according to the rules of the society; and the property of any branch of a society shall vest in the trustees of such branch, or in the trustees of the society if the rules of the society so provide, for the use and benefit either of the members of such branch and persons claiming through such members, or of the members of the society generally, and persons claiming through them, according to the rules of the society.

(4.) Upon the death, resignation, or removal of a trustee, whether of a society or branch, the property vested in such trustee vests in the succeeding trustees of such society or branch either solely or together with any surviving or continuing trustees, and until the appointment of succeeding trustees in such surviving or continuing trustees only, or in the executors or administrators of the last surviving or continuing trustee, as personal estate (whether the same be real or personal), subject to the same trusts, without conveyance or assignment, except that stocks and securities in the public funds of Great Britain and Ireland shall be transferred into the names of the succeeding trustees, either solely or jointly with any surviving or continuing trustees.

(5.) In all legal proceedings whatsoever concerning any such property the same shall be stated to be the property of the trustees for the time being in their proper names as trustees for the society or branch (as the case may be) without further description.

(6.) Where a society is entitled in equity to any hereditaments of copyhold or customary tenure, either absolutely or by way of mortgage or security, the lord of the manor of which the same are held shall from time to time, if the society so require, admit the trustees (not to exceed three) of such society as tenants in respect of such hereditaments, on payment of the usual fines, fees, and other dues payable on the admission of a single tenant.

(7.) A receipt under the hands of the trustees, countersigned by the secretary, in the form contained in the third schedule to this act, or in any form specified by the rules of the society or any schedule thereto, for all moneys secured to the society by any mortgage or other assurance, such receipt being endorsed upon or annexed to such mortgage or other assurance, vacates the same, and vests the property therein comprised in the person entitled to the equity of redemption of the same, without reconveyance or surrender; but this provision does not apply to Scotland or to the Island of Jersey.

(8.) If such mortgage or other assurance has been registered under any act for the registration or record of deeds or titles, or is of copyholds or lands of customary tenure and entered on any court rolls, the registrar under such act, or recording officer, or steward of the manor, or keeper of the register, shall on production of such receipt, verified by oath of any person, enter satisfaction on the register or on the court rolls respectively of such mortgage or of the charge made by such assurance, and shall grant a certificate, either upon such mortgage or assurance, or separately to the like effect, which certificate shall be received in evidence in all courts and proceedings without further proof, and such registrar, recording officer, steward, or keeper of the register is entitled to a fee of two shillings and sixpence for making the said entry and granting the said certificate, and such fee shall in Ireland be paid by stamps, and applied as the other fees of the Registry

of Deeds Office and Record of Title Office are by law directed to be paid and applied.

(9.) If any person obtains possession by false representation or imposition of any property of a society, or having the same in his possession withholds or misapplies the same, or wilfully applies any part thereof to purposes other than those expressed or directed in the rules of the society and authorized by this act, he shall, on the complaint of the society, or of any member authorized by the society, or the trustees or committee of management of the same, or by the central office, or of the chief registrar or any assistant registrar by his authority, be liable on summary conviction to a penalty not exceeding twenty pounds and costs, and to be ordered to deliver up all such property, or to repay all moneys applied improperly, and in default of such delivery or repayment, or of the payment of such penalty and costs aforesaid, to be imprisoned, with or without hard labour, for any time not exceeding three months; but nothing herein contained prevents any such person from being proceeded against by way of indictment, if not previously convicted of the same offence under the provisions of this act.

Punishment
of fraud or
misappropriation.

(10.) Trustees of a society are not liable to make good any deficiency in the funds of such society, but are liable only for moneys actually received by them respectively on account of such society."

Trustees not
to be personally liable.

After provisions respecting the investment of funds with the National Debt Commissioners, and regulating loans to members, and security to be given by officers in receipt or charge of money, and the accumulation of the surplus contributions of members, the following sections occur :—

Sect. 20. "With respect to officers of registered societies having receipt or charge of money, the following provisions shall have effect :

Officers in
receipt or
charge of
money.

(1.) Every officer, if the rules of the society require, shall, before taking upon himself the execution of his office, become bound with one sufficient surety at the least in a bond according to one of the forms set forth in the third schedule to this act, or give the security of a guarantee society, in such sum as the society directs, conditioned for his rendering a just and true account of all moneys received and paid by him on account of the society at such times as its rules appoint, or as the society or the trustees or committee of management thereof require him to do so, and for the payment by him of all sums due from him to the society.

Security to
be given.

(2.) Every officer, his executors or administrators, shall, at such times as by the rules of the society he should render account, or upon demand made, or notice in writing given or left at his last or usual place of residence, give in his account as may be required by the society, or by the trustees or committee of management of the society, to be examined and allowed or disallowed by them, and shall, on the like demand or notice, pay over all moneys and deliver all property for the time being in his hands or custody to such person as the society, or the committee of management, or the trustees appoint ; and in case of any neglect or refusal to deliver such account, or to pay over such moneys or to deliver such property in manner aforesaid, the trustees or authorized officers of the society may sue upon the bond or security before mentioned, or may apply to the county court (which may proceed in a summary way), or to a court of summary jurisdiction, and the order of either such court shall be final and conclusive."

Accounts of
officers.

gal pro-
ceedings.

Sect. 21. "With respect to legal proceedings against registered societies, the following provisions shall have effect :

(1.) The trustees of any society or branch, or any other officers authorized by the rules thereof, may bring or defend, or cause to be brought or defended, any action, suit, or other legal proceeding in any court whatsoever, touching or concerning any property, right, or claim of the society or branch, as the case may be, and shall sue and be sued, implead and be impleaded, in their proper names, without other description than the title of their office.

(2.) In legal proceedings which may be brought under this act by a member or person claiming through a member, the society may also be sued in the name, as defendant, of any officer or person who receives contributions or issues policies on behalf of the society within the jurisdiction of the court in which the legal proceeding is brought, with the addition of the words 'on behalf of the society' (naming the same).

(3.) No legal proceeding shall abate or be discontinued by the death, resignation, or removal from office of any officer, or by any act of such officer after the commencement of the proceedings.

(4.) The summons, writ, process or other proceeding to be issued to or against the officer or other person sued on behalf of a society shall be sufficiently served by personally serving such officer or other person, or by leaving a true copy thereof at the registered office of the society, or at any place of business of the society within the jurisdiction of the court in which the proceeding is brought, or, if such office or place of business be closed, by posting such copy on the outer door of the same ; but in all cases where the said summons, writ, process, or other proceeding shall not be served by means of such personal service or by leaving a true copy thereof at the registered office of the society, a copy thereof shall be transmitted addressed to the committee of management at the registered office of the society, and the same shall be enclosed in a registered letter posted at least six days before any further step shall be taken on such summons, writ, process, or other proceeding."

Next follows a provision further directly dealing with the jurisdiction of county courts.

disputes.

Sect. 22. "Every dispute between a member or person claiming through a member or under the rules of a registered society, and the society or an officer thereof, shall be decided in manner directed by the rules of the society, and the decision so made shall be binding and conclusive on all parties without appeal, and shall not be removable into any court of law or restrainable by injunction ; and application for the enforcement thereof may be made to the county court.

Provided as follows :

(a.) The parties to a dispute in a society may, by consent (unless the rules of such society expressly forbid it), refer such dispute to the chief registrar, or to the assistant registrar in Ireland or Scotland, who shall, with the consent of the treasury, either by himself or by any other registrar, hear and determine such dispute, and shall have power to order the expenses of determining the same to be paid either out of the funds of the society or by such parties to the dispute

as he shall think fit, and such determination and order shall have the same effect and be enforceable in like manner as a decision made in the manner directed by the rules of the society :

(b.) The chief or other registrar to whom any dispute is referred may administer oaths, and may require the attendance of all parties concerned, and of witnesses, and the production of all books and documents relating to the matter in question ; and any person refusing to attend, or to produce any documents, or to give evidence before such chief or other registrar, shall be guilty of an offence under this act ;

(c.) Where the rules of a society direct that disputes shall be referred to justices, the dispute shall be determined by a court of summary jurisdiction (1) :

Provided that in every case of dispute cognizable under the rules of a society by a court of summary jurisdiction, it shall be lawful for the parties thereto to enter into a consent referring such dispute to the county court, which may hear and determine the matter in dispute :

(d.) Where the rules contain no direction as to disputes, or where no decision is made on a dispute within forty days after application to the society for a reference under its rules, the member or person aggrieved may apply either to the county court, or to a court of summary jurisdiction, which may hear and determine the matter in dispute :

(e.) The court, chief or other registrar, may, at the request of either party, state a case for the opinion in England of the Supreme Court of Judicature, in Scotland of either division of the Inner House of the Court of Session, or in Ireland of one of the superior courts of common law at Dublin, on any question of law, and may also grant to either party such discovery as to documents and otherwise, or such inspection of documents, and in Scotland may grant warrant for the recovery of documents and examination of havers, as might be granted by any court of law or equity, such discovery to be made on behalf of the society by such officer of the same as such court or registrar may determine."

The provision, however, of the greatest importance, not only as affecting county courts' jurisdiction, but the rights of members, is contained in sect. 30. It does not extend to every description of registered society, but applies to friendly societies and to all industrial assurance companies, except an assurance with any such company the premiums in respect of which are receivable at greater periodical intervals than two months. This provision is in these terms :—

"In all disputes between a society and any member or person insured, or any person claiming through a member or person insured, or under the rules, such member or person may, notwithstanding any provisions

(1) For the constitution of courts of summary jurisdiction, see sect. 33, sub-sect. 3.

of the rules of such society to the contrary, apply to the county court, or to the court of summary jurisdiction for the place where such member or other person resides, and such court may settle such dispute in manner herein provided" (m).

This provision applies to societies existing at the commencement of the act, and must be contained in the rules of all future societies to which the section applies(n). It will be seen that the effect of this section is to give members of friendly societies and also persons insured in industrial assurance companies the right to apply for relief to the county court, notwithstanding any other tribunal established by the rules, and notwithstanding sect. 22, enacting that disputes shall be decided in manner directed by the rules of the society.

The difficulties felt and the injustice heretofore often perpetrated by societies on members (especially aged members) by the rules providing an interested tribunal for deciding claims, are now, it may be hoped, removed (o).

As to cattle insurance and certain other societies.

Sect. 31. "The provisions of the present section apply only to registered cattle insurance societies, and to such specially authorised societies as the Treasury may allow to take the benefit of the present section:

Rules to have effect of covenant by members.

(1.) The rules bind the society and the members thereof, and all persons claiming through them respectively, to the same extent as if each member had subscribed his name and affixed his seal thereto, and there were in such rules contained a covenant on the part of himself, his heirs, executors, and administrators, to conform to such rules subject to the provisions of this act.

Money payable by members to be recoverable as debt.

(2.) All moneys payable by a member to the society are deemed to be a debt due from such member to the society, and are recoverable as such in the county court of the district in which such member resides."

Sect. 34 enacts that—

"The registrars and high bailiffs of the county courts shall be remunerated for the duties to be performed by them under this act in such manner as the Treasury, with the consent of the Lord Chancellor, shall from time to time order and direct."

See Order XXXV. of the Consolidated County Court Orders, *post*, regulating proceedings under "The Friendly Societies Act, 1875."

(m) Sect. 30, sub-sect. 10.
(n) Sect. 30, sub-sect. 13.

(o) See the observations on the former law, Vol. II., pp. 133, 134.

THE SALE OF FOOD AND DRUGS ACT, 1875.

(38 & 39 Vict. c. 63.)

This act contains the following remarkable clause affecting actions, whether in the county court or elsewhere:—

Sect. 28. "Nothing in this act contained shall affect the power of proceeding by indictment or take away any other remedy against any offender under this act, or in any way interfere with contracts and bargains between individuals and the rights and remedies belonging thereto.

"Provided that in any action brought by any person for a breach of contract on the sale of any article of food or of any drug, such person may recover alone or in addition to any other damages recoverable by him, the amount of any penalty in which he may have been convicted under this act, together with the costs paid by him upon such conviction and those incurred by him in and about his defence thereto, if he prove that the article or drug, the subject of such conviction, was sold to him as and for an article or drug of the same nature, substance and quality as that which was demanded of him, and that he purchased it not knowing it to be otherwise, and afterwards sold it in the same state in which he purchased it; the defendant in such action being nevertheless at liberty to prove that the conviction was wrongful, or that the amount of costs awarded or claimed was unreasonable."

THE SUPREME COURT OF JUDICATURE ACT, 1875.

(38 & 39 Vict. c. 77.)

This act, amending the Supreme Court of Judicature Act, 1873 (called the principal act), only affects to a comparatively small extent those provisions of the Supreme Court of Judicature Act, 1873, which were given in the last edition of the County Court Practice and Evidence (*p*).

Sect. 10. "Whereas by section twenty-five of the principal act (*q*), after reciting that it is expedient to amend and declare the law to be thereafter administered in England as to the matters next therein-after mentioned, certain enactments are made with respect to the law, and it is expedient to amend the said section: Be it therefore enacted as follows:

Amendment of 36 & 37 Vict. c. 66, s. 25, as to rules of law upon certain points.

Sub-section one of clause twenty-five of the principal act is hereby repealed, and instead thereof the following enactment shall take effect; (that is to say,) in the administration by the court of the assets of any person who may die after the commencement of this act, and whose estate may prove to be insufficient for the

(*p*) The Rules appended to the Act of 1875 regulate the proceedings in the High Court of Justice and Court of Appeal; and, although they may in time affect the procedure in

the County Courts, it would be worse than useless to speculate on the extent of such application.

(*q*) See Vol. I. p. 61 (*n*.)

payment in full of his debts and liabilities, and in the winding-up of any company under the Companies Acts, 1862 and 1867, whose assets may prove to be insufficient for the payment of its debts and liabilities and the costs of winding-up, the same rules shall prevail and be observed as to the respective rights of secured and unsecured creditors, and as to debts and liabilities provable, and as to the valuation of annuities and future and contingent liabilities respectively as may be in force for the time being under the law of bankruptcy with respect to the estates of persons adjudged bankrupt, and all persons who in any such case would be entitled to prove for and receive dividends out of the estate of any such deceased person, or out of the assets of any such company, may come in under the decree or order for the administration of such estate, or under the winding-up of such company, and make such claims against the same as they may respectively be entitled to by virtue of this act. In subsection seven of the said section (r) the reference to the date of the passing of the principal act shall be deemed to refer to the date of the commencement of the principal act."

The auxiliary jurisdiction of the county court, in relation to district registries (Vol. I., p. 50), has been slightly amended.

Amendment
of sect. 60 of
36 & 37 Vict.
c. 66, as to
district regis-
trars.

Sect. 13. "Whereas by sect. 60 of the principal act it is provided that for the purpose of facilitating the prosecution in country districts of legal proceedings, it shall be lawful for her Majesty by order in council from time to time to direct that there shall be district registries in such places as shall be in such order mentioned for districts to be thereby defined (s), and whereas it is expedient to amend the said section: Be it therefore enacted that

"Where any such order has been made, two persons may, if required, be appointed to perform the duties of district registrar in any district named in the order, and such persons shall be deemed to be joint district registrars, and shall perform the said duties in such manner as may from time to time be directed by the said order, or any order in council amending the same.

"Moreover the registrar of any inferior court of record having jurisdiction in any part of any district defined by such order (other than a county court) shall, if appointed by her Majesty, be qualified to be a district registrar for the said district, or for any and such part thereof as may be directed by such order or any order amending the same.

"Every district registrar shall be deemed to be an officer of the Supreme Court, and be subject accordingly to the jurisdiction of such court, and of the divisions thereof."

Sect. 14. Recites that under sect. 87 of the principal act solicitors and attorneys will be called solicitors of the Supreme

(r) See Vol. I. p. 62 (n.)

(s) Under this power district registrars were (by order in council dated 12th August, 1875,) established in seventy-four places. With the exception of Liverpool, Manchester,

Preston and Durham, the registrar of the county court is appointed district registrar, and the district is the county court district of the place. It is probable that an alteration will be made in the extent of the districts.

Court, and provides for regulations adapting enactments relating to them.

Sect. 15. "It shall be lawful for her Majesty from time to time, by order in council, to direct that the enactments relating to appeals from county courts shall apply to any other inferior court of record; and those enactments, subject to any exceptions, conditions, and limitations contained in the order, shall apply accordingly as from the date mentioned in the order."

Sect. 32. Reciting 32 & 33 Vict. c. 83, s. 19, and 32 & 33 Vict. c. 71, s. 116 (see Vol. II., p. 354), as to payment of unclaimed dividends in bankruptcy, enacts that—

"Any court having jurisdiction in the matter of any bankruptcy or insolvency, upon being satisfied that any person claiming is entitled to any dividend or other payment out of the moneys vested in the Crown in pursuance of sect. 19 of "The Bankruptcy Repeal and Insolvent Court Act, 1869," or of sect. 116 of "The Bankruptcy Act, 1869," may order payment of the same in like manner as it might have done if the same had not by reason of the expiration of five years become vested in the Crown, in pursuance of the said section. This section shall take effect as from the passing of this act."

PARLIAMENTARY ELECTIONS (RETURNING OFFICERS) ACT, 1875.

(38 & 39 VICT. C. 84.)

This act amends the law relating to the expenses and charges of returning officers at parliamentary elections, and, after limiting the charges of returning officers, and giving them power to require security from candidates, and requiring returning officers to deliver accounts of charges, enacts (by sect. 4) that—

"If the person from whom payment is claimed objects to any part of the claim, he may, at any time within fourteen days from the time when the account is transmitted to him, apply to the court, as defined in this section, for a taxation of the account, and the court shall have jurisdiction to tax the account in such manner and at such time and place as the court thinks fit, and finally to determine the amount payable to the returning officer, and to give and enforce judgment for the same as if such judgment were a judgment in an action in such court, and with or without costs, at the discretion of the court.

"The court for the purposes of this act shall be, in the city of London, the Lord Mayor's Court, and elsewhere in England the county court, and in Ireland the Civil Bill Court having jurisdiction at the place of nomination for an election to which the proceedings relate.

"The court may depute any of its powers or duties under this act to the registrar or other principal officer of the court.

"Nothing in this section shall apply to the charge of the returning officer for publication of accounts of election expenses."

The act, also, by sect. 5, limits the liability of returning officers for work, labour, materials, services, or expenses to written claims within fourteen days of the return of the person elected, and enacts that—

“Where application is made for taxation of the accounts of returning officer, he may apply to the court, as defined by this act, to examine any claim transmitted to him by any person in pursuance of this section, and the court, after notice given to such person, and after hearing him, and any evidence tendered by him, may allow or disallow, or reduce the claim objected to, with or without costs, and the determination of the court shall be final for all purposes, and as against all persons.”

THE LAND TRANSFER ACT, 1875.

(38 & 39 VICT. C. 87.)

This act “to make further provision for the simplification of the title to land, and for facilitating the transfer of land,” taking effect from 1st January, 1876, establishes a land registry, and gives various powers to “the court,” on application of any person interested, “made in the prescribed manner,” in relation to any registered land or charge. The act provides—

“The court”
to mean, ac-
cording to cir-
cumstances,
court of chan-
cery and
county court.

Sect. 114. “For the purposes of this act ‘the court’ shall mean the Court of Chancery or the county court, according as the one or other of such courts may be prescribed by the general rules made for carrying into effect this act (a).

“The county court shall, in cases where it has jurisdiction, under this act, have, for all the purposes of such jurisdiction, all the powers of the Court of Chancery.

“Any jurisdiction of the Court of Chancery or county court under this act may be exercised by any judge of the said court, whether sitting in open court or in chambers.”

Appeal from
county court.

Sect. 116. “Any person aggrieved by any order of a judge of a county court may, within the prescribed time, and in the prescribed manner, appeal to the Court of Chancery. The court, on hearing such appeal, may give judgment affirming, reversing, or modifying the order appealed from, and may finally decide thereon, and make such order as to costs in the court below and of the appeal as may be agreeable to justice; and if the court alter or modify the order, such order so altered or modified shall be of the like effect as if it were the order of the county court. The Court of Chancery may, also, in cases where the court thinks it expedient so to do, instead of making a final order, remit the case, with such directions as the court may think fit, to the court below.”

(a) Rules are made by the Lord Chancellor, with the advice and assistance of the registrar.

THE EMPLOYERS AND WORKMEN ACT, 1875.

(38 & 39 VICT. c. 90.)

This act, which came into operation on the 1st of September, 1875, enacts—

Sect. 3. "In any proceeding before a county court in relation to any dispute between an employer and a workman (*p*) arising out of or incidental to their relation as such (which dispute is hereinafter referred to as a dispute under this act) the court may, in addition to any jurisdiction it might have exercised if this act had not passed, exercise all or any of the following powers; that is to say,

Power of county court as to ordering of payment of money, set-off and rescission of contract and taking security.

(1.) It may adjust and set off the one against the other all such claims on the part either of the employer or of the workman, arising out of or incidental to the relation between them, as the court may find to be subsisting, whether such claims are liquidated or unliquidated, and are for wages, damages, or otherwise (*q*); and,

(2.) If, having regard to all the circumstances of the case, it thinks it just to do so, it may rescind any contract between the employer and the workman upon such terms as to the apportionment of wages or other sums due thereunder, and as to the payment of wages or damages, or other sums due, as it thinks just; and,

(3.) Where the court might otherwise award damages for any breach of contract it may, if the defendant be willing to give security to the satisfaction of the court for the performance by him of so much of his contract as remains unperformed, with the consent of the plaintiff, accept such security, and order performance of the contract accordingly, in place either of the whole of the damages which would otherwise have been awarded, or some part of such damages.

The security shall be an undertaking by the defendant and one or more surety or sureties that the defendant will perform his contract, subject on non-performance to the payment of a sum to be specified in the undertaking.

(*p*) Section 10 enacts that, "In this act the expression 'workman' does not include a domestic or menial servant, but, save as aforesaid, means any person who, being a labourer, servant in husbandry, journeyman, artificer, handicraftsman, miner, or otherwise engaged in manual labour, whether under the age of twenty-one years or above that age, has entered into or works under a contract with an employer, whether the contract be made before or after the passing of this act, be express or implied, oral or in writing, and be a contract of service or a contract personally to execute any work or labour." See

this definition fully examined in Davis' Labour Laws, pp. 110—116.

(*q*) Section 11 enacts that, "In the case of a child, young person, or woman subject to the provisions of the Factory Acts, 1833 to 1874, any forfeiture on the ground of absence or leaving work shall not be deducted from or set off against a claim for wages or other sum due for work done before such absence or leaving work, except to the amount of the damage (if any) which the employer may have sustained by reason of such absence or leaving work." As to the origin and meaning of this section, see the preface to Davis' Labour Laws, p. ix., and also p. 292 of that work.

Any sum paid by a surety on behalf of a defendant in respect of a security under this act, together with all costs incurred by such surety in respect of such security, shall be deemed to be a debt due to him from the defendant; and where such security has been given in or under the direction of a court of summary jurisdiction, that court may order payment to the surety of the sum which has so become due to him from the defendant."

Mode of
giving secu-
rity.

Sect. 8. "A person may give security under this act in a county court or court of summary jurisdiction by an oral or written acknowledgment in or under the direction of the court of the undertaking or condition by which and the sum for which he is bound, in such manner and form as may be prescribed by any rule for the time being in force, and in any case where security is so given, the court in or under the direction of which it is given may order payment of any sum which may become due in pursuance of such security.

The Lord Chancellor may at any time after the passing of this act, and from time to time make, and when made, rescind, alter, and add to, rules with respect to giving security under this act."

The County Court Consolidated Orders, 1875, Order XXXVII. r. 50, *post*, provide that no notice of set-off or counter-claim shall be necessary in any action between employers and workmen to enable the court to exercise the powers mentioned in sub-sect. (1) of s. 3 in the text.

THE AGRICULTURAL HOLDINGS (ENGLAND) ACT, 1875.

(38 & 39 VICT. c. 92.)

This act, "for amending the law relating to agricultural holdings in England," is so important, not only with reference to the jurisdiction given to county courts under it, but also in relation to the rights of landlord and tenant generally, including notices to quit and fixtures, that the provisions are given in full.

" Preliminary.

Short title.

Sect. 1. "This act may be cited as 'The Agricultural Holdings (England) Act, 1875.'

Commence-
ment of act.

Sect. 2. "This act shall commence from and immediately after the fourteenth day of February, one thousand eight hundred and seventy-six.

Extent of act.

Sect. 3. "This act shall not extend to Scotland or Ireland.

Interpreta-
tion.

Sect. 4. "In this act—

'Contract of tenancy' means a letting of land for a term of years, or for lives, or for lives and years, or from year to year, or at will :

'Determination of tenancy' means the cesser of a contract of tenancy by reason of effluxion of time, or from any other cause :

‘ Landlord ’ means the person for the time being entitled to possession of land subject to a contract of tenancy, or entitled to receipt of rent reserved by a contract of tenancy, whatever be the extent of his interest, and although the land or his interest therein is incumbered or charged by himself or his settlor, or otherwise, to any extent ; the party to a contract of tenancy under which land is actually occupied being alone deemed to be the landlord in relation to the actual occupier :

‘ Tenant ’ means the holder of land under a contract of tenancy :

‘ Landlord ’ or ‘ tenant ’ includes the agent authorized in writing to act under this act generally, or for any special purpose, and the executors, administrators, assigns, husband, guardian, committee of the estate, or trustees in bankruptcy, of a landlord or tenant :

‘ Holding ’ includes all land held by the same tenant of the same landlord for the same term under the same contract of tenancy :

‘ Absolute owner ’ means the owner or person capable of disposing, by appointment or otherwise, of the fee simple or whole interest of or in freehold, copyhold, or leasehold land, although the land or his interest therein is mortgaged, encumbered, or charged to any extent :

‘ County court,’ in relation to a holding, means the county court within the district whereof the holding or the larger part thereof is situate :

‘ Person ’ includes a body of persons and a corporation aggregate or sole.

“ The designations of landlord and tenant shall, for the purposes of this act, continue to apply to the parties to a contract of tenancy until the conclusion of any proceedings taken under this act on the determination of the tenancy.

“ Compensation.”

Sect. 5. “ Where, after the commencement of this act, a tenant executes on his holding an improvement comprised in either of the three classes following :

Tenant's title to compensation.

FIRST CLASS.

Drainage of land.	Making or improving of water-courses, ponds, wells, or reservoirs, or of works for supply of water for agricultural or domestic purposes.
Erection or enlargement of buildings.	Making of fences.
Laying down of permanent pasture.	Planting of hops.
Making and planting of osier beds.	Planting of orchards.
Making of water meadows or works of irrigation.	Reclaiming of waste land.
Making of gardens.	Warping of land.
Making or improving of roads or bridges.	

SECOND CLASS.

Boning of land with undissolved bones.	Claying of land.
Chalking of land.	Liming of land.
Clay burning.	Marling of land.

THIRD CLASS.

Application to land of purchased artificial or other purchased manure.	Consumption on the holding by cattle, sheep, or pigs of cake or other feeding stuff not produced on the holding.
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he shall be entitled, subject to the provisions of this act, to obtain, on the determination of the tenancy, compensation in respect of the improvement.

Time in which improvement exhausted.

Sect. 6. "An improvement shall not in any case be deemed, for the purposes of this act, to continue unexhausted beyond the respective times following after the year of tenancy in which the outlay thereon is made:

- "Where the improvement is of the first class, the end of twenty years:
- "Where it is of the second class, the end of seven years:
- "Where it is of the third class, the end of two years:

Amount of tenant's compensation in first class.

Sect. 7. "The amount of the tenant's compensation in respect of an improvement of the first class shall, subject to the provisions of this act, be the sum laid out by the tenant on the improvement, with a deduction of a proportionate part thereof for each year while the tenancy endures after the year of tenancy in which the outlay is made and while the improvement continues unexhausted; but so that where the landlord was not, at the time of the consent given to the execution of the improvement, absolute owner of the holding for his own benefit, the amount of the compensation shall not exceed a capital sum fairly representing the addition which the improvement, as far as it continues unexhausted at the determination of the tenancy, then makes to the letting value of the holding.

Amount of tenant's compensation in second class.

Sect. 8. "The amount of the tenant's compensation in respect of an improvement of the second class shall, subject to the provisions of this act, be the sum properly laid out by the tenant on the improvement, with a deduction of a proportionate part thereof for each year while the tenancy endures after the year of tenancy in which the outlay is made and while the improvement continues unexhausted.

Amount of tenant's compensation in third class.

Sect. 9. "The amount of the tenant's compensation in respect of an improvement of the third class shall, subject to the provisions of this act, be such proportion of the sum properly laid out by the tenant on the improvement as fairly represents the value thereof at the determination of the tenancy to an incoming tenant.

Consent of landlord for first class.

Sect. 10. "The tenant shall not be entitled to compensation in respect of an improvement of the first class, unless he has executed it with the previous consent in writing of the landlord.

Deduction in first class for want of repair, &c.

Sect. 11. "In the ascertainment of the amount of the tenant's compensation in respect of an improvement of the first class, there shall be taken into account, in reduction thereof, any sum reasonably necessary to be expended for the purpose of putting the same into tenantable repair or good condition.

Notice to landlord for second class.

Sect. 12. "The tenant shall not be entitled to compensation in respect of an improvement of the second class, unless, not more than forty-two and not less than seven days before beginning to execute it, he has given to the landlord notice in writing of his intention to do so, nor where it is executed after the tenant has given or received notice to quit, unless it is executed with the previous consent in writing of the landlord.

Sect. 13. "The tenant shall not be entitled to compensation in respect of an improvement of the third class, where, after the execution thereof, there has been taken from the portion of the holding on which the same was executed, a crop of corn, potatoes, hay, or seed, or any other exhausting crop.

Exclusion of compensation in third class after exhausting crop.

Sect. 14. "The tenant shall not be entitled to compensation in respect of an improvement of the third class, consisting in the consumption of cake or other feeding stuff, where, under the custom of the country or an agreement, he is entitled to and claims payment from the landlord or incoming tenant in respect of the additional value given by that consumption to the manure left on the holding at the determination of the tenancy.

Exclusion of compensation for consumption of cake, &c. in certain cases.

Sect. 15. "In the ascertainment of the amount of compensation in respect of an improvement of the third class,—

Restrictions as to third class.

(1.) There shall not be taken into account any larger outlay during the last year of the tenancy than the average amount of the tenant's outlay for like purposes during the three next preceding years of the tenancy, or other less number of years for which the tenancy has endured; and,

(2.) There shall be deducted the value of the manure that would have been produced by the consumption on the holding of any hay, straw, roots, or green crops sold off the holding within the last two years of the tenancy or other less time for which the tenancy has endured, except as far as a proper return of manure to the holding has been made in respect of such produce sold off.

Sect. 16. "The amount of the tenant's compensation shall be subject to the following deductions :

Deductions from compensation for taxes, rent, &c.

(1.) For taxes, rates, and tithe-rentcharge due or becoming due in respect of the holding to which the tenant is liable as between him and the landlord :

(2.) For rent due or becoming due in respect of the holding :

(3.) For the landlord's compensation under this act.

Sect. 17. "In the ascertainment of the amount of the tenant's compensation there shall be taken into account in reduction thereof any benefit which the landlord has given or allowed to the tenant in consideration of the tenant executing the improvement.

Set-off of benefit to tenant.

Sect. 18. "Where a landlord commits a breach of covenant or other agreement connected with the contract of tenancy, and the tenant claims under this act compensation in respect of an improvement, then the tenant shall be entitled to obtain, on the determination of the tenancy, compensation in respect of the breach, subject and according to the provisions of this act.

Tenant's compensation for breach of covenant.

Sect. 19. "Where a tenant commits or permits waste, or commits a breach of a covenant or other agreement connected with the contract of tenancy, and the tenant claims compensation under this act in respect of an improvement, then the landlord shall be entitled, by counter-claim, but not otherwise, to obtain, on the determination of the tenancy, compensation in respect of the waste or breach, subject and according to the provisions of this act.

Landlord's title to compensation.

"But nothing in this section shall enable a landlord to obtain under this act compensation in respect of waste or a breach committed or permitted in relation to a matter of husbandry more than four years before the determination of the tenancy.

" Procedure.

Notice of
intended
claim.

Sect. 20. "Notwithstanding anything in this act, a tenant shall not be entitled to compensation under this act unless one month at least before the determination of the tenancy he gives notice in writing to the landlord of his intention to make a claim for compensation under this act.

"Where a tenant gives such a notice the landlord may, before the determination of the tenancy, or within fourteen days thereafter, give a counter-notice in writing to the tenant of his intention to make a claim for compensation under this act.

"Every such notice and counter-notice shall state, as far as reasonably may be, the particulars of the intended claim.

Compensa-
tion agreed
or settled by
reference.

Sect. 21. "The landlord and the tenant may agree on the amount and mode and time of payment of compensation to be paid to the tenant or to the landlord under this act.

"If in any case they do not so agree the difference shall be settled by a reference.

Appointment
of referee or
referees and
umpire.

Sect. 22. "Where there is a reference under this act, a referee, or two referees and an umpire, shall be appointed as follows :

- (1.) If the parties concur, there may be a single referee appointed by them jointly :
- (2.) If, before award, the single referee dies or becomes incapable of acting, or for seven days after notice from the parties, or either of them, requiring him to act, fails to act, the proceedings shall begin afresh, as if no referee had been appointed :
- (3.) If the parties do not concur in the appointment of a single referee, each of them shall appoint a referee :
- (4.) If, before award, one or two referees dies or becomes incapable of acting, or for seven days after notice from either party requiring him to act fails to act, the party appointing him shall appoint another referee :
- (5.) Notice of every appointment of a referee by either party shall be given to the other party :
- (6.) If for fourteen days after notice by one party to the other to appoint a referee, or another referee, the other party fails to do so, then, on the application of the party giving notice, the county court shall, within fourteen days, appoint a competent and impartial person to be a referee :
- (7.) Where two referees are appointed, then (subject to the provisions of this act) they shall, before they enter on the reference, appoint an umpire :
- (8.) If, before award, an umpire dies or becomes incapable of acting, the referees shall appoint another umpire :
- (9.) If, for seven days after request from either party, the referees fail to appoint an umpire, or another umpire, then, on the application of either party, the county court shall, within fourteen days, appoint a competent and impartial person to be the umpire :
- (10.) Every appointment, notice, and request under this section shall be in writing.

Requisition
for appoint-
ment of um-
pire by inclo-
sure commis-
sioners, &c.

Sect. 23. "Provided, that where two referees are appointed, an umpire may be appointed as follows :

- (1.) If either party, on appointing a referee, requires, by notice in writing to the other, that the umpire shall be appointed by the

Inclosure Commissioners for England and Wales, then the umpire, and any successor to him, shall be appointed, on the application of either party, by those Commissioners :

- (2.) In every other case, if either party, on appointing a referee, requires, by notice in writing to the other, that the umpire shall be appointed by the county court, then, unless the other party dissents by notice in writing therefrom, the umpire, and any successor to him, shall, on the application of either party, be so appointed, and in case of such dissent, the umpire, and any successor to him, shall be appointed, on the application of either party, by the Inclosure Commissioners for England and Wales.

Sect. 24. "The powers of the county court under this act, relative to the appointment of a referee or umpire shall be exerciseable by the judge of the court having jurisdiction, whether he is without or within his district, and may, by consent of the parties, be exercised by the registrar of the court.

Exercise of powers of county court.

Sect. 25. "The delivery to a referee of his appointment shall be deemed a submission to a reference by the party delivering it; and neither party shall have power to revoke a submission, or the appointment of a referee, without the consent of the other.

Mode of submission to reference.

Sect. 26. "The referee or referees or umpire may call for the production of any sample, or voucher or other document, or other evidence which is in the possession or power of either party, or which either party can produce, and which to the referee or referees or umpire seems necessary for determination of the matters referred, and may take the examination of the parties and witnesses on oath, and may administer oaths and take affirmations; and if any person so sworn or affirming wilfully and corruptly gives false evidence he shall be guilty of perjury.

Power for referee, &c. to require production of documents, administer oaths, &c.

Sect. 27. "The referee or referees or umpire may proceed in the absence of either party where the same appears to him or them expedient, after notice given to the parties.

Power to proceed in absence.

Sect. 28. "The award shall be in writing, signed by the referee or referees or umpire.

Form of award.

Sect. 29. "A single referee shall make his award ready for delivery within twenty-eight days after his appointment.

Time for award of referee or referees.

"Two referees shall make their award ready for delivery within twenty-eight days after the appointment of the last appointed of them, or within such extended time (if any) as they from time to time jointly fix by writing under their hands, so that they make their award ready for delivery within a time not exceeding in the whole forty-nine days after the appointment of the last appointed of them.

Sect. 30. "Where two referees are appointed and act, if they fail to make their award ready for delivery within the time aforesaid, then, on the expiration of that time, their authority shall cease, and thereupon the matters referred to them shall stand referred to the umpire.

Reference to and award by umpire.

"The umpire shall make his award ready for delivery within twenty-eight days after notice in writing given to him by either party or referee of the reference to him, or within such extended time (if any) as the registrar of the county court from time to time appoints, on the application of the umpire or of either party, made before the expiration of the time appointed by or extended under this section.

Sect. 31. "The award shall find and state the time at which each improvement, in respect whereof compensation is awarded, is taken, for the purposes of the award, to be exhausted.

Duration of improvement to be found.

Award to
give parti-
culars.

Sect. 32. "The award shall not award a sum generally for compensation, but shall, as far as reasonably may be, specify—

The several improvements, acts, and things in respect whereof compensation is awarded;

The time at which each thereof was executed, committed, or permitted;

In the case of an improvement of the first class, where the landlord was not at the time of the consent given to the execution thereof absolute owner of the holding for his own benefit, the extent to which the improvement adds to the letting value of the holding;

The sum awarded in respect of each improvement, act, or thing; and

The sum laid out by the tenant on each improvement.

Costs of re-
ference.

Sect. 33. "The costs of and attending the reference, including the remuneration of the referee or referees and umpire, where the umpire has been required to act, and including other proper expenses, shall be borne and paid by the parties in such proportion as to the referee or referees or umpire appears just, regard being had to the reasonableness or unreasonableness of the claim of either party in respect of amount, or otherwise, and to all the circumstances of the case.

"The award may direct the payment of the whole or any part of the costs aforesaid by the one party to the other.

"The costs aforesaid shall be subject to taxation by the registrar of the county court, on the application of either party, but that taxation shall be subject to review by the judge of the county court.

Day for pay-
ment.

Sect. 34. "The award shall fix a day, not sooner than one month after the delivery of the award, for the payment of money awarded for compensation, costs, or otherwise.

Submission
not to be
removable,
&c.

Sect. 35. "A submission or award shall not be made a rule of any court, or be removable by any process into any court, and an award shall not be questioned otherwise than as provided by this act.

Appeal to
county court.

Sect. 36. "Where the sum claimed for compensation exceeds fifty pounds, either party may, within seven days after the delivery of the award, appeal against it to the judge of the county court on all or any of the following grounds:

1. That the award is invalid;

2. That compensation has been awarded for improvements, acts, or things, breaches of covenants or agreements, or for committing or permitting waste, in respect of which the party claiming was not entitled to compensation;

3. That compensation has not been awarded for improvements, acts, or things, breaches of covenants or agreements, or for committing or permitting waste, in respect of which the party claiming was entitled to compensation;

and the judge shall hear and determine the appeal, and may, in his discretion, remit the case to be reheard as to the whole or any part thereof by the referee or referees or umpire, with such directions as he may think fit.

"If no appeal is so brought, the award shall be final.

"The decision of the judge of the county court on appeal shall be final, save that the judge shall, at the request of either party, state a special case on a question of law for the judgment of the High Court of Justice, and the decision of the High Court on the case, and respecting costs and any other matter connected therewith, shall be final, and the judge of the county court shall act thereon.

Sect. 37. "Where any money agreed or awarded or ordered on appeal to be paid for compensation, costs, or otherwise, is not paid within fourteen days after the time when it is agreed or awarded or ordered to be paid, it shall be recoverable, upon order made by the judge of the county court, as money ordered by a county court under its ordinary jurisdiction to be paid is recoverable.

Recovery of compensation.

Sect. 38. "Where a landlord or tenant is an infant without a guardian, or is of unsound mind not so found by inquisition, the county court, on the application of any person interested, may appoint a guardian of the infant or person of unsound mind for the purposes of this act, and may change the guardian if and as occasion requires.

Appointment of guardian.

Sect. 39. "The county court may appoint a person to act as the next friend of a married woman for the purposes of this act, and may remove or change that next friend if and as occasion requires.

Provisions respecting married women.

"A married woman entitled for her separate use, and not restrained from anticipation, shall, for the purposes of this act, be in respect of land as if she was unmarried.

"Where any other married woman is desirous of doing any act under this act, her husband's concurrence shall be requisite, and she shall be examined apart from him by the county court, or by the judge of the county court for the place where she for the time being is, touching her knowledge of the nature and effect of the intended act, and it shall be ascertained that she is acting freely and voluntarily.

Sect. 40. "The costs of proceedings in the county court under this act shall be in the discretion of the court.

Costs in county court.

"The Lord Chancellor may from time to time prescribe a scale of costs for those proceedings, and of costs to be taxed by the registrar of the court.

Sect. 41. "Any notice, request, demand, or other instrument under this act may be served on the person to whom it is to be given, either personally or by leaving it for him at his last known place of abode in England, or by sending it through the post in a registered letter addressed to him there; and if so sent by post it shall be deemed to have been served at the time when the letter containing it would be delivered in ordinary course; and in order to prove service by letter it shall be sufficient to prove that the letter was properly addressed and posted, and that it contained the notice, request, demand, or other instrument to be served.

Service of notice, &c.

"Charge of Tenant's Compensation."

Sect. 42. "A landlord, on paying to the tenant the amount of compensation due to him under this act, may obtain from the county court a charge on the holding in respect thereof:

Power for landlord, on paying compensation, to obtain charge.

"The court shall have power, on proof of the payment, and on being satisfied of the observance in good faith by the parties of the conditions imposed by this act, to make an order charging the holding with repayment of the amount paid, or any part thereof, with such interest, and by such instalments, and with such directions for giving effect to the charge, as the court thinks fit:

"But, where the landlord obtaining the charge is not absolute owner of the holding for his own benefit, no instalment or interest shall be made payable after the time when the improvement in respect whereof compensation is paid will, for the purposes of this act, be taken to be exhausted:

"The instalments and interest shall be charged in favour of the landlord, his executors, administrators and assigns.

Advance
made by a
company for
the improve-
ment of land.

Sect. 43. "Any company now or hereafter incorporated by parliament, and having power to advance money for the improvement of land, may take an assignment of any charge made by a county court under the provisions of this act, upon such terms and conditions as may be agreed upon between such company and the person entitled to such charge; and such company may assign any charge so acquired by them to any person or persons whomsoever.

Duration of
charge.

Sect. 44. "The sum charged by the order of a county court under this act shall be a charge on the holding for the landlord's interest therein, and for all interests therein subsequent to that of the landlord; but so that the charge shall not extend beyond the landlord's interest where the landlord is himself a tenant of the holding.

"Crown and Duchy Lands.

Application
of act to
crown lands.

Sect. 45. "This act shall extend and apply to land belonging to her Majesty the Queen, her heirs and successors, in right of the crown.

"With respect to such land, for the purposes of this act, the Commissioners of her Majesty's Woods, Forests and Land Revenues, or one of them, or other the proper officer or body having charge of such land for the time being, or in case there is no such officer or body, then such person as her Majesty, her heirs or successors, may appoint in writing under the royal sign manual, shall represent her Majesty, her heirs and successors, and shall be deemed to be the landlord.

"Any compensation payable under this act by the Commissioners of her Majesty's Woods, Forests and Land Revenues, or either of them, in respect of an improvement of the first class, shall be deemed to be payable in respect of an improvement of land within section one of 'The Crown Lands Act, 1866,' and the amount thereof shall be charged and repaid as in that section provided with respect to the costs, charges and expenses therein mentioned.

"Any compensation payable under this act by those commissioners, or either of them, in respect of an improvement of the second class, or of the third class, shall be deemed to be part of the expenses of the management of the land revenues of the crown, and shall be payable by those commissioners out of such money and in such manner as the last-mentioned expenses are by law payable.

Application
of act to land
of Duchy of
Lancaster.

Sect. 46. "This act shall extend and apply to land belonging to her Majesty, her heirs and successors, in right of the duchy of Lancaster.

"With respect to such land, for the purposes of this act, the chancellor for the time being of the duchy shall represent her Majesty, her heirs and successors, and shall be deemed to be the landlord.

"The amount of any compensation payable under this act by the chancellor of the duchy in respect of an improvement of the first class shall be deemed to be an expense incurred in improvement of land belonging to her Majesty, her heirs or successors, in right of the duchy, within section twenty-five of the act of the fifty-seventh year of King George the Third, chapter ninety-seven, and shall be raised and paid as in that section provided with respect to the expenses therein mentioned.

"The amount of any compensation payable under this act by the chancellor of the duchy in respect of an improvement of the second class or of the third class shall be paid out of the annual revenues of the duchy.

"The amount of any compensation payable under this act to the

chancellor of the duchy shall be paid into the hands of the receiver general of the revenues of the duchy, or of his sufficient deputy or deputies; and receipts shall be given by him or them for the same; and the same shall be applied as purchase-money for land sold under 'The Duchy of Lancaster Lands Act, 1855,' is applicable under section two of that act.

Sect. 47. "This act shall extend and apply to land belonging to the duchy of Cornwall.

Application
of act to land
of Duchy of
Cornwall.

"With respect to such land for the purposes of this act, such person as the Duke of Cornwall for the time being, or other the personage for the time being entitled to the revenues and possessions of the Duchy of Cornwall, from time to time, by sign manual, warrant or otherwise, appoints, shall represent the Duke of Cornwall, or other the personage aforesaid, and be deemed to be the landlord, and may do any act or thing under this act which a landlord is authorized or required to do thereunder.

"Any compensation payable under this act by the Duke of Cornwall, or other the personage aforesaid, in respect of an improvement of the first class, shall be deemed to be payable in respect of an improvement of land within section eight of 'The Duchy of Cornwall Management Act, 1863,' and the amount thereof may be advanced and paid from the money mentioned in that section, subject to the provision therein made for repayment of sums advanced for improvements.

" Ecclesiastical and Charity Lands.

Sect. 48. "Where lands are assigned or secured as the endowment of a see, the powers by this act conferred on a landlord shall not be exercised by the archbishop or bishop, in respect of those lands, except with the previous approval in writing of the Estates Committee of the Ecclesiastical Commissioners for England.

Landlord,
archbishop
or bishop.

Sect. 49. "Where a landlord is incumbent of an ecclesiastical benefice, the powers by this act conferred on a landlord shall not be exercised by him in respect of the glebe land or other land belonging to the benefice, except with the previous approval in writing of the Governors of Queen Anne's Bounty (that is, the Governors of the Bounty of Queen Anne for the augmentation of the maintenance of the poor clergy).

Landlord,
incumbent of
benefice.

"In every such case the Governors of Queen Anne's Bounty may, if they think fit, on behalf of the incumbent, out of any money in their hands, pay to the tenant the amount of compensation due to him under this act; and thereupon they may, instead of the incumbent, obtain from the county court a charge on the holding, in respect thereof, in favour of themselves.

"Every such charge shall be effectual, notwithstanding any change of the incumbent.

"The Governors of Queen Anne's Bounty, before granting their approval in any case under this section, shall give notice of the application for their approval to the patron of the benefice (that is, the person, officer, or authority who, in case the benefice were then vacant, would be entitled to present thereto).

Sect. 50. "The powers by this act conferred on a landlord shall not be exercised by trustees for ecclesiastical or charitable purposes except with the previous approval in writing of the Charity Commissioners for England and Wales.

Landlord,
charity trustees,
&c.

SUPPLEMENT TO DAVIS' COUNTY COURTS.

" Notice to quit.

Sect. 51. " Where a half-year's notice, expiring with a year of tenancy is by law necessary and sufficient for determination of a tenancy from year to year, a year's notice so expiring shall by virtue of this act be necessary and sufficient for the same ; but nothing in this section shall extend to a case where the tenant is adjudged bankrupt, or has filed a petition for a composition or arrangement with his creditors.

" Resumption for Improvements.

Sect. 52. " Where on a tenancy from year to year a notice to quit is given by the landlord with a view to the use of land for any of the following purposes :—

The erection of farm labourers' cottages or other houses, with or without gardens ;

The providing of gardens for existing farm labourers' cottages or other houses ;

The allotment for labourers of land for gardens or other purposes ;

The planting of trees ;

The opening or working of any coal, ironstone, limestone, or other mineral, or of a stone quarry, clay, sand, or gravel pit, or the construction of any works or buildings to be used in connexion therewith ;

The obtaining of brick earth, gravel, or sand ;

The making of a watercourse or reservoir ;

The making of any road, tramroad, siding, canal, or basin, or any wharf, pier, or other work connected therewith ;

and the notice to quit so states, then it shall, by virtue of this act, be no objection to the notice that it relates to part only of the holding.

" In every such case the provisions of this act respecting compensation shall apply as on determination of a tenancy in respect of an entire holding.

" The tenant shall also be entitled to a proportionate reduction of rent in respect of the land comprised in the notice to quit, and in respect of any depreciation of the value to him of the residue of the holding, caused by the withdrawal of that land from the holding or by the use to be made thereof ; and the amount of that reduction shall be ascertained by agreement or settled by a reference under this act, as in case of compensation (but without appeal).

" The tenant shall further be entitled, at any time within twenty-eight days after service of the notice to quit, to serve on the landlord a notice in writing to the effect that he (the tenant) accepts the same as a notice to quit the entire holding, to take effect at the expiration of the then current year of tenancy ; and the notice to quit shall have effect accordingly.

" Fixtures.

Sect. 53. " Where after the commencement of this act a tenant affixes to his holding any engine, machinery, or other fixture for which he is not under this act or otherwise entitled to compensation, and which is not so affixed in pursuance of some obligation in that behalf or instead of some fixture belonging to the landlord, then such fixture shall be the property of and be removable by the tenant :

Provided as follows :—

1. Before the removal of any fixture the tenant shall pay all rent

owing by him, and shall perform or satisfy all other his obligations to the landlord in respect of the holding :

2. In the removal of any fixture the tenant shall not do any avoidable damage to any building or other part of the holding :
3. Immediately after the removal of any fixture the tenant shall make good all damage occasioned to any building or other part of the holding by the removal :
4. The tenant shall not remove any fixture without giving one month's previous notice in writing to the landlord of the intention of the tenant to remove it :
5. At any time before the expiration of the notice of removal, the landlord, by notice in writing given by him to the tenant, may elect to purchase any fixture comprised in the notice of removal, and any fixture thus elected to be purchased shall be left by the tenant, and shall become the property of the landlord, who shall pay the tenant the fair value thereof to an incoming tenant of the holding ; and any difference as to the value shall be settled by a reference under this act, as in case of compensation (but without appeal) :

But nothing in this section shall apply to a steam engine erected by the tenant if, before erecting it, the tenant has not given to the landlord notice in writing of his intention to do so, or if the landlord, by notice in writing given to the tenant, has objected to the erection thereof.

"General Application of Act.

Sect. 54. "Nothing in this act shall prevent a landlord and tenant, or intending landlord and tenant, from entering into and carrying into effect any such agreement as they think fit, or shall interfere with the operation thereof.

No restriction on contract.

Sect. 55. "A landlord and tenant, whether the landlord is absolute owner of the holding for his own benefit or not, may, in any agreement in writing relating to the holding, adopt by reference any of the provisions of this act respecting procedure or any other matter, without adopting all the provisions of this act ; and any provision so adopted shall have effect in connexion with the agreement accordingly.

Adoption of parts of act by agreement.

"But where, at the time of the making of the agreement, the landlord is not absolute owner of the holding for his own benefit, no charge shall be made on the holding, under this act, by virtue of the agreement, greater than or different in nature or duration from the charge which might have been made thereon, under this act, in the absence of the agreement.

Sect. 56. "This act shall apply to every contract of tenancy beginning after the commencement of this act, unless, in any case, the landlord and tenant agree in writing, in the contract of tenancy, or otherwise, that this act, or any part or provision of this act, shall not apply to the contract ; and, in that case, this act, or the part or provision thereof to which that agreement refers (as the case may be), shall not apply to the contract.

Application of act to future tenancies.

Sect. 57. "In any case of a contract of tenancy from year to year or at will, current at the commencement of this act, this act shall not apply to the contract, if within two months after the commencement of this act the landlord or the tenant gives notice in writing to the other to the effect that he (the person giving the notice) desires that the existing contract of tenancy between them shall remain unaffected by

Application of act to existing tenancies.

this act; but such a notice shall be revocable by writing; and in the absence of any such notice, or on revocation of every such notice, this act shall apply to the contract.

"In every other case of a contract of tenancy current at the commencement of this act, this act shall not apply to the contract.

Exception of
non-agri-
cultural and
small hold-
ings.

Sect. 58. "Nothing in this act shall apply to a holding that is not either wholly agricultural or wholly pastoral, or in part agricultural and as to the residue pastoral, or that is of less extent than two acres.

Exception
where other
compensation.

Sect. 59. "A tenant shall not be entitled to claim compensation under this act and under any custom of the country or contract in respect of the same work or thing.

General
saving of
rights.

Sect. 60. "Except as in this act expressed, nothing in this act shall take away, abridge, or prejudicially affect any power, right, or remedy of a landlord, tenant, or other person, vested in or exercisable by him by virtue of any other act or law, or under any custom of the country, or otherwise, in respect of a contract of tenancy or other contract, or of any improvement, waste, emblements, tillages, away-going crops, fixtures, tax, rate, tithe rent-charge, rent, or other thing."

The special rules of procedure are contained in the Consolidated County Court Orders and Rules, 1875, in relation to proceedings under the above act (see Order XXXIV., *post*, p. 140); except so far as that order otherwise provides, the general rules of procedure are applied to this act. (See Order XXXVIII., *post*, p. 148.)

THE COPYRIGHT OF DESIGNS ACT, 1875.

(38 & 39 VICT. c. 93.)

This act, which takes effect from 1st January, 1876, amends the Copyright of Designs Act, under which proceedings for infringement of designs may be instituted in the county courts, as mentioned *ante*, Vol. 1, pp. 53, 160, 161.

THE
COUNTY COURT RULES, 1875,
With Forms,
AND
SCALES OF COSTS AND FEES.

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NOTE.— *With the exception of some authorized corrections, the rules and forms are given precisely as issued officially. There are some misprints and errors, and references left in blanks; but as they cannot mislead, it is considered better not to interfere with the authorized issue.*

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	Order.	Rule.		Order.	Rule.
1	I.	1	39	—	—
2	—	—	40	—	—
3	I.	2	41	IV.	8
4	IV.	9	42	—	—
5	I.	4	43	VII. & VIII.	{ 1
6	—	3	44	—	4
7	II.	2	45	VII.	—
8	—	1	46	VIII.	9
9	—	—	47	—	1
10	II.	4	48	—	2
11	—	5	49	—	5
12	—	7	50	—	3
13	—	—	51	—	6
14	II.	3	52	—	8
15	—	8	53	—	9
16	—	9	54	—	13
17	—	10	55	—	14
18	—	11	56	—	15
19	—	12	57	—	16
20	XXX.	6	58	—	17
21	II.	16	59	—	18
22	—	17	60	—	19
23	—	18	61	—	20
24	—	19	62	—	22
25	—	20	63	—	23
26	—	21	64	—	25
27	—	24	65	—	—
28	—	25	66	—	26
29	—	26	67	XXXVII.	85
30	—	22	68	IX.	5
31	—	23	69	XX.	1
32	—	28	70	—	1
33	—	29	71	—	1
34	—	30	72	—	1
35	—	31	73	—	4
36	IV.	2	74	XII.	4
37	—	1	75	—	5
38	—	3		—	7

Rule.	New.		Rule.	New.	
	Order.	Rule.		Order.	Rule
76	XIII.	5	127	XVII.	10
77	"	■	128	"	11
78	"	2	129	XXXVI.	11
79	"	3	130	"	3
80	"	6	131	"	2
81	"	7	132	"	3
82	"	8	133	"	5
83	—	—	134	"	6
84	XIV.	7	135	XIX.	27
85	XXXVII.	22	136	"	27
86	"	23	137	"	27
87	—	—	■	XXXVI.	7
88	IX.	7	139	"	8
89	"	8	140	XVIII.	2
90	"	9	141	"	5
91	"	10	142	"	6
92	"	11	143	"	7
93	"	12	144	XIX.	32
94	"	13	145	XXIV.	1
95	"	15	146	"	2
96	"	14	147	"	3
97	"	7	148	"	4
98	"	16	149	"	5
99	—	—	150	"	6
100	XIV.	1	151	XIX.	2
101	"	2	152	"	3
102	"	■	153	"	■
103	"	5	154	"	5
104	XVI.	1	155	—	—
105	"	2	156	XIX.	10
106	"	3	157	"	12
107	"	4	158	"	14
108	XXXVII.	26	159	"	16
109	"	27	160	"	17
110	"	28	161	"	18
111	XVI.	■	162	—	—
112	—	—	163	—	—
113	XVI.	7	164	XIX.	23
114	"	8	165	"	24
115	—	—	166	"	24
116	XVI.	9	167	"	24
117	IX.	6	168	—	—
118	XVI.	10	169	XXVI.	1
119	XVII.	8	170	"	2
120	"	4	171	"	3
121	"	5	172	XXVIII.	1
122	"	6	173	"	2
123	"	7	174	XXI.	1 & 2
124	"	8	175	"	3
125	"	9	176	"	4
126	"	2	177	"	5

Rule.	New.		Rule.	New.	
	Order.	Rule.		Order.	Rule.
178	XXI.	6	229	XII.	2
179	"	7	230	—	—
180	"	8	231	XVI.	3
181	XXX.	1	232	—	—
182	"	2	233	XVIII.	8
183	"	3	234	XVI.	5
184	"	4	235	—	—
185	"	5	236	—	—
186	XXIX.	1	237	—	—
187	"	2	238	—	—
188	"	3	239	—	—
189	"	4	240	—	—
190	"	4	241	XVI.	11
191	—	—	242	"	11
192	XXIX.	5	243	"	11
193	"	8	244	"	11
194	—	—	245	"	11
195	XXIX.	9	246	"	11
196	"	10	247	"	11
197	"	11	248	"	11
198	XV.	4	249	"	11
199	"	6	250	XII.	1
200	XIX.	33	251	"	1
201	XV.	5	252	"	1
202	"	7	253	XXXVII.	24
203	"	8	254	XII.	2
204	XXV.	1	255	XXXVII.	25
205	XXV.	2	256	—	—
206	"	3	257	VII.	6
207	"	4	258	XVI.	3
208	—	—	259	XXII.	1
209	XXV.	5	260	"	2
210	"	6	261	"	3
211	"	7	262	"	4
212	"	8	263	"	5
213	"	9	264	XXXVII.	42
214	"	10	265	"	43
215	"	11	266	"	44
216	"	12	267	"	45
217	XXXVII.	33	268	"	50
218	"	34	269	XXXV.	1
219	"	36	270	"	1
220	VIII.	31	271	VIII.	33
221	"	32	272	XXXVII.	47
222	XXIII.	1	273	"	48
223	IV.	1	274	XVIII.	8
224	VIII.	7	375	"	49
225	"	20	276	XL.	—
226	—	—	277	—	—
227	IX.	4	278	XXXVII.	21
228	"	4	279	—	—

EQUITY ORDERS AND RULES.

OLD RULES.		NEW RULES.		OLD RULES.		NEW RULES.	
Rule.	Order.	Order.	Rule.	Rule.	Order.	Order.	Rule.
1	I.	IV.	1	11	VI.	XVIII.	27
2	"	"	3	12	"	"	28
3	"	VII.	1	13	"	"	29
4	"	"	4	14	"	"	34
5	"	—	—	1	VII.	"	35
6	"	VII.	1	2	"	"	36
7	"	IV.	1	3	"	"	37
8	"	"	1	1	VIII.	"	30
9	"	VIII.	8	2	"	"	31
10	"	XXXVII.	42	3	"	"	32
1	II.	XII.	3	4	"	"	33
2	"	"	3	1	IX.	—	—
3	"	"	2	1	X.	XV.	1 & 2
4	"	"	2	2	"	"	1 & 2
5	"	"	2	3	"	"	1 & 2
6	"	XXXVII.	23	1	XI.	XXXI.	15
1	III.	XIV.	3	2	"	"	16
2	"	XIII.	9	3	"	V.	6
3	"	"	5	4	"	XI.	1
4	"	XIV.	1	5	"	XXXI.	1
5	"	"	4	6	"	"	2
6	"	"	5	7	"	"	3
7	"	"	6	8	"	"	4
8	"	"	9	9	"	"	5
9	"	"	8	10	"	"	6
10	"	"	8	11	"	"	7
11	"	XXVI.	3	12	"	"	8
1	IV.	—	—	13	"	"	9
2	"	—	—	14	"	"	10
3	"	XIV.	10	15	"	"	11
4	"	—	—	16	"	"	12
5	"	—	—	17	"	"	13
6	"	—	—	18	"	"	14
1	V.	XVIII.	1	19	"	"	16
2	"	"	13	20	"	"	17
3	"	—	—	21	"	"	18
4	"	XVIII.	14	22	"	"	19
5	"	"	15	23	"	"	20
6	"	"	16	24	"	"	21
1	VI.	"	13	1	XII.	XI.	1
2	"	"	16	2	"	"	3
3	"	"	19	3	"	"	4
4	"	"	20	1	XIII.	—	—
5	"	"	21	1	XIV.	XXXVII.	37
6	"	"	22	2	"	"	38
7	"	"	23	3	"	"	39
8	"	"	24	4	"	"	40
9	"	"	25	5	"	"	41
10	"	"	26	1	XV.	XXVIII.	1

OLD RULES.		NEW RULES.		OLD RULES.		NEW RULES.	
Rule.	Order.	Order.	Rule.	Rule.	Order.	Order.	Rule.
1	XVI.	XIX.	28	1	XXI.	II.	32
2	"	"	—	2	"	—	—
3	"	"	1	3	"	II.	34
4	"	"	29	4	"	"	30
5	"	XI.	4	1	XXII.	III.	1
6	"	XIX.	80	2	"	"	2
7	"	"	81	3	"	"	3
1	XVII.	"	—	4	"	"	4
2	"	XXVII.	1	5	"	"	5
3	"	"	2	6	"	"	6
4	"	"	3	7	"	"	7
5	"	"	4	1	XXIII.	—	—
6	"	"	5	2	"	XXXVII.	32
7	"	"	6	3	"	—	—
8	"	"	7	4	"	XXXVII.	2
9	"	"	8	5	"	VIII.	5
1	XVIII.	XX.	5	6	"	—	—
2	"	"	1	7	"	—	—
3	"	"	3	8	"	XXXVII.	31
4	"	—	—	9	"	—	—
1	XIX.	XXIX.	1	10	"	XXXVII.	3
2	"	"	3	11	"	"	8
3	"	"	4	12	"	"	9
4	"	"	5	13	"	"	11
5	"	"	6	14	"	"	12
6	"	"	7	15	"	"	13
7	"	"	8	16	"	"	14
8	"	—	—	17	"	"	15
9	"	—	9	18	"	"	16
10	"	—	—	19	"	V.	7
1	XX.	—	—	20	"	XXXVII.	17
2	"	II.	3	21	"	XXXVI.	1
3	"	—	13	22	"	XXXVII.	18
4	"	XXXVII.	32	23	"	"	19
5	"	XVIII.	17	24	"	"	51
6	"	"	18	25	"	"	20
7	"	—	—	26	"	"	21
8	"	—	—	27	"	—	—
9	"	II.	15	28	"	"	—
10	"	"	14				

COMPANIES ACT, 1867, &c.

See Order XXXIX.

SUPPLEMENT TO DAVIS' COUNTY COURTS.

DEBTORS ACT, 1869.
January, 1870.

Rule.	New.		Rule.	New.	
	Order.	Rule.		Order.	Rule.
1	XIX.	6	14	XIX.	17
2	"	7	15	"	18
3	—	—	16	"	22
4	XIX.	8	17	"	23
5	"	9	18	"	24
6	—	—	19	"	25
7	XIX.	10	20	—	—
8	"	11	21	XIX.	27
9	"	12	22	"	"
10	"	13	23	"	"
11	"	14	24	"	20
12	"	15	25	—	—
13	"	16			

May, 1870.

1	—	—	5	XIX.	19
2	—	—	6	"	20
3	XXXVII.	7	7	"	21
4	XIX.	27	8	—	—

COUNTY COURT RULES, May, 1870.

1	—	—	9	—	—
2	IV.	3	10	—	—
3	XXXVII.	5	11	—	—
4	"	6	12	—	—
5	"	7	18	XXXVI.	10
6	II.	5	14	"	11
7	"	6	15	—	—
8	XII.	8			

ADMIRALTY RULES.

1	XXXIII.	1	8	XXXIII.	6
2	"	2	9	"	7
3	"	3	10	"	8
4	"	4	11	"	9
5	"	4	12	"	10
6	V.	1	13	"	11
7	I.	5	14	"	12

Rule.	New.		Rule.	New.	
	Order.	Rule.		Order.	Rule.
15	XXXIII.	13	47	XXXIII.	30
16	"	14	48	"	31
17	"	15	49	"	32
18	"	16	50	"	33
19	XXX.	4 & 5	51	"	34
20	XXXIII.	17	52	"	35
21	"	18	53	"	36
22	XIV.	1	54	"	37
23	XXXVI.	3	55	"	38
24	"	4	56	"	39
25	XXXVII.	37	57	"	40
26	"	38	58	"	41
27	"	39	59	XXXVII.	4
28	"	39	60	"	32
29	—	41	61	—	—
30	—	—	62	—	—
31	—	—	63	—	—
32	—	—	64	—	—
33	XXXVII.	51	65	—	—
34	XXXIII.	19	66	—	—
35	"	20	67	—	—
36	"	21	68	XXXVII.	31
37	"	22	69	XXXIII.	42
38	—	—	70	"	43
39	XIX.	1	71	"	44
40	XXXIII.	23	72	"	45
41	"	24	73	"	46
42	"	25	74	XXXVII.	21
43	"	26	75	—	—
44	"	27	76	—	—
45	"	28	77	—	—
46	"	29			

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25. Notice to plaintiff of payment of instalment	161
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MATTER SHOULD BE PRINTED.**

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THE CONSOLIDATED COUNTY COURT ORDERS AND RULES, 1875.

THE orders, rules, and forms now in use in the county courts, except in proceedings under the Bankruptcy Act, 1869 (*a*), Charitable Trusts Acts (*b*) and the Probate Acts (*c*), shall, on and from the second day of November, 1875, cease to be used, and in lieu thereof the following shall, on and from such day, be the orders, rules, and forms in force and used in the said courts.

Short Title.

These orders may be cited as "The County Court Rules, 1875."

Short title.

Interpretation.

In the construction of these rules, words importing the singular number shall include the plural, and words importing the plural number shall include the singular number, and words importing the masculine gender shall include females, and the following terms shall (if not inconsistent with the context or subject matter) have the respective meanings herein-after assigned to them, that is to say:

Interpreta-
tion.

"Action" shall mean every proceeding commenced by plaint in a county court;

"Affidavit" shall include statutory declarations, affirmations, and attestations upon honour, and the word "sworn" shall include declaring and affirmed according to statute and attested upon honour;

"Clear days" shall mean that all cases in which any particular number of days is prescribed for the doing any act, or for any other purpose, the same shall be reckoned exclusive both of the first and of the last day;

"Court" shall mean the county court having jurisdiction in the action or matter;

"Default summons" shall mean a summons other than a judgment summons, which is required by statute to be served personally;

(*a*) See the orders, rules and forms under the Bankruptcy Act, 1869, under their appropriate heads, Vol. II.

pp. 199—406.

(*b*) See Vol. II., pp. 125—129.

(*c*) See Vol. II., pp. 190—198.

- "Foreign court" shall mean the court of the district into which process is issued from another court ;
- "Home court" shall mean the court from which process is originally issued ;
- "Home district" shall mean the district of the home court ; and "foreign district" shall mean the district of the foreign court ;
- "Judge" shall mean the judge or deputy judge of any such court ;
- "Matter" shall mean every proceeding commenced otherwise than by plaint, and whether in an action or not ;
- "Month" shall mean calendar month ;
- "Ordinary summons" shall mean a summons which is not required by statute to be served personally ;
- "Party" shall mean party to any action or matter ; or a person served with notice of, or in, any action or matter, and shall include body politic or corporate ;
- "Registrar" shall mean a registrar or any deputy registrar of any such court ;
- "Return-day" shall mean and include the day appointed by an ordinary summons for the appearance of the defendant, or any other day fixed for the trial of an action ;
- "Treasurer" shall, where there is no treasurer of the court, mean the superintendent, for the time being, of the county court department of the treasury ;
- "Trial" shall mean any trial of the action or the hearing of any matter before the court.

ORDER I.

COURT AND OFFICES.

Sittings of
court.
9 & 10 Vict.
c. 95, s. 56 (d).

1. Every judge shall appoint the days and hours for holding his courts ; and a notice of the day and hour on which each court will be holden shall, three calendar months before the holding thereof, be affixed in some conspicuous place in the court-house and in the registrar's office ; and whenever any day or hour so appointed for holding the court shall be altered, notice of such alteration shall immediately be affixed in like manner ; but any judge may from time to time hold additional and adjourned courts.

No two courts
to be held on
same day.

2. Two courts shall not be holden before the same judge on one day, unless with the consent of the Lord Chancellor ; but this rule shall not apply to the holding of an adjourned court, or to the City of London Court.

On what days
registrar to
keep county
court office
open.

3. An office shall be kept open by the registrar at each place where the court of which he is registrar is holden, and such office shall be kept open every day from ten o'clock in the morning until four o'clock in the afternoon, except on Christmas day, Good Friday, the Saturday next after Good Friday, Easter Monday, Easter Tuesday, Whit Monday, the first Monday in August, or any day appointed by royal proclamation for a public fast, humiliation, thanksgiving, or any day appointed for

(d) See Vol. I. p. 9.

closing the same by the Lord Chancellor; provided that on Saturdays the office may be closed at one o'clock in the afternoon, but where Saturday is the market day of the town in which the court is holden, the office shall not be so closed, but may be closed at one o'clock on some other day of the week instead of Saturday, which day shall be fixed upon for such purpose by the judge, and shall not afterwards be changed except by his leave: Provided, that an office need not be kept open in more than one place within the district of a court, although the court is holden at more than one place within the district, unless the Lord Chancellor shall otherwise order: Provided also, that during the days on which in such district the court is held in any place other than in the place where the registrar's office is situate, or on which an office is open at such other place, the office may be closed on such days in the place in which the office is required generally to be kept open.

4. The offices of the county courts may from time to time be closed by special order of the Lord Chancellor on such days as may be mentioned in any such order.

County court office may be closed by order.

ORDER II.

OFFICERS.

Registrar.

1. Whenever the registrar is absent from the sitting of a court, the judge shall appoint a deputy to act on behalf of the registrar; and an entry of such appointment and the cause of such absence (if known) shall be made on the minutes of the court.

Deputy registrars.
9 & 10 Vict.
c. 95, s. 26 (e).

2. The registrar shall keep the books in the forms in the schedule; and every entry in such books shall have a number prefixed, corresponding with the number of the plaint to which the entry relates.

Registrar to keep books.
9 & 10 Vict. c.
95, s. 27 (f).

3. The registrar shall file all documents delivered to him in any action or matter, and shall distinguish them by the number of the plaint in respect of which they are filed, and from each other, by a distinctive letter of the alphabet, and he shall enter in the "Notice Book" the fact of the dispatch of all summonses to foreign courts, documents, notices, and letters sent by him to any party, and all particulars required by the form of such book.

Documents to be distinguished by the number of the plaint and letters.

4. The registrar of the court shall issue all summonses and warrants forthwith after the plaints are entered or the warrants applied for.

Registrar to issue all processes.

5. Where a summons is required to be served in a foreign district, the registrar shall transmit the same and a copy thereof to the bailiff of the foreign court within twenty-four hours after the plaint is entered, with a letter according to the form in the schedule, unless the home court shall order the summons in that particular case to be served by its bailiff; and where the summons is returned to the registrar by the bailiff of the foreign court, not served, the registrar shall forthwith give notice to the plaintiff of such non-service: but no letter need be transmitted from one metropolitan court to another.

Service of summons in foreign district.
Form

6. Where by the indorsement on the copy of a summons made by a bailiff of a foreign court, it shall appear doubtful whether the service

Doubtful service in foreign district.

(e) See Vol. I. p. 110.

(f) See Vol. I. p. 106, n.

Form .

Particulars to
be annexed
to summons.

Payment into
court.

Searches.
19 & 20 Vict.
c. 108, s.
45 (g).

Acknowledg-
ment of pay-
ments and
deposits.

Court books
to be pro-
duced to trea-
surer.

No officer to
act as agent
to parties.

Notice of re-
jection of
imperfect affi-
davits or do-
cuments.

Form .
Where legacy
or succession
duty payable,
it must be
paid before
execution of
decree.

Custody of
securities.
30 & 31 Vict.
c. 142 (h), s.
24.

Absence of
high bailiff
at court.

will be held sufficient, the registrar of the home court shall forthwith on receiving back such copy send to the plaintiff a notice according to the form in the schedule.

7. The registrar shall in all cases where by these rules particulars are required, annex to the summons a copy of the plaintiff's particulars, sealed with the seal of the court; and shall also make and deliver to the bailiff a true copy of the summons.

8. Moneys to be paid into court under the order of the judge may be so paid, during office hours, on every day on which such office is open.

9. Searches may be made and the money to which suitors are entitled shall be paid out upon demand (in cash if required) on three days, at the least, in each week, such days to be fixed by the registrar from time to time, with the approbation of the judge, and to be printed or written on the plaint note: Provided that, for the purpose of enabling the registrar to furnish the list of balances in the ledgers according to the requirements of the commissioners of her Majesty's Treasury, no searches shall be made or money paid out of court during one week in each year, provided that due notice of such week shall have been affixed in some conspicuous place in the office of the registrar a month beforehand.

10. Whenever money is paid into or deposited in court, whether before or after judgment, an acknowledgment in writing of such payment or deposit shall be given.

11. All the books of the court, including the bankers' book and cash book, shall at all times be open to the inspection of the treasurer.

12. No registrar, deputy registrar, registrar's clerk, high bailiff, bailiff, broker, or other officer of the court, and no partner or clerk of any such officer, shall, on account of suitors, sign the ledger, or any other book, or receive money, or otherwise act as an agent for that purpose.

13. Where a registrar rejects an affidavit or other document, he shall give notice, according to the form in schedule, by post or otherwise, to the party offering the same for filing, of such rejection and of the reasons thereof.

14. Before executing any order directing the payment or transfer of any fund, or part of any fund, in respect of which any duty shall be payable to the revenue under the acts relating to legacy or succession duty, it shall be the duty of the registrar, before making the payment, to require a certificate from the proper officer of, or the production of the receipt for, the payment of the duty chargeable in respect of such fund, or any part thereof respectively.

15. The registrars shall comply with all regulations which may from time to time be made by the commissioners of her Majesty's Treasury for the safe custody of any securities deposited with them under section 24 of "The County Courts Act, 1867" (i).

High Bailiff.

16. Whenever the high bailiff does not attend any sitting of the court, he shall transmit to the registrar in writing the cause of his absence, who shall enter it on the minutes of the then or the next succeeding court.

(g) See Vol. I. p. 285.

(h) Misprinted 412 for c. 142, in

first issue of Rules.

(i) See Vol. II. p. 19.

17. The high bailiff shall keep books and make returns in the forms in the schedule.

High bailiff
to keep
books.

18. The high bailiff or bailiff of the court shall attend for the purpose of receiving processes or for the performance of other duties, at the office of the registrar once at least every day during the hours it is open; and shall compare and examine all processes delivered to him by the registrar, so as to enable him to prove its correctness.

Attendance
at office.

19. The office of the high bailiff of a county court, in which the plaints entered shall have exceeded six thousand in any one year, shall be open to the public for the purpose of answering inquiries, giving information, or for any other purpose connected with the duties of the bailiff, during the same hours as the office of the registrar of the court is to be kept open.

Keeping open
an office.

20. The high bailiff shall serve or cause to be served process issued out of his court of which he is high bailiff, or sent to him for service from other county courts, as soon as practicable.

Service of
process.

21. If the service of the summons has been personal, the bailiff who served the same shall indorse on the copy of the summons delivered to him by the registrar the fact of such service; and if the service has not been personal, he shall indorse on the copy of the summons the statement which has been made by the person to whom the summons was delivered, or other circumstances from which it may be inferred that the service of the summons has come to the knowledge of the defendant; and if the summons has not been served, the bailiff shall indorse on such copy the reason of such non-service, and shall deliver it to the registrar with the list of summonses hereafter mentioned, and such copy shall be produced by the registrar or high bailiff, as the judge may require. All such endorsements shall be signed by the bailiff.

Indorsement
of service on
copy of sum-
mons.

22. Where an ordinary home summons has not been served, the high bailiff shall forthwith give notice to the plaintiff of the fact of such non-service according to the form in the schedule.

Notice of
non-service
to be given.
Form .

23. Where the answers given by the person to whom an ordinary summons is delivered at the place mentioned in a summons as the residence or place of business of the defendant render it doubtful whether the court will be satisfied that its service has come to the knowledge of the defendant before the return-day, the high bailiff shall forthwith send to the plaintiff a notice according to the form in the schedule.

Notice of
doubtful ser-
vice to be
given.

Form .

24. Where an ordinary summons to appear to a plaint is required to be served in a foreign district, the high bailiff of that district shall, eight clear days at least before the return-day, transmit the copy thereof to the registrar of the home court duly endorsed, and where it has not been served, he shall return the summons also.

Service by
foreign bail-
iff.

25. Where the high bailiff of a foreign court neglects to return to the registrar of the home court the copy of a summons as required by the last preceding rule, or of a judgment summons, three clear days before its return-day, the judge of the home court may, upon evidence of such summons having been posted to the high bailiff of the foreign court, direct such high bailiff to have notice that he will at a court to be mentioned, unless such high bailiff show cause to the contrary, make an order directing such high bailiff to pay to the plaintiff such sum as the judge may think reasonable, as compensation for any loss of time and expense which may have been caused to the plaintiff by such

Where re-
turn of ser-
vice to home
court is not
made, foreign
bailiff may be
ordered to pay
costs.

neglect, and if on the day mentioned the judge shall make any order for payment by such high bailiff a memorandum of such order shall be made in the minute book, and the registrar of the home court shall transmit to the high bailiff of the foreign court a notice according to the form in the schedule, and if he shall not remit to the registrar of the home court the sum directed by the order to be paid, the registrar shall transmit to the treasurer of the foreign court a copy of the notice certifying thereon the neglect of the high bailiff to pay the money as required, and the treasurer shall deduct such sum from any payment he may hereafter make to the high bailiff.

Form .

High bailiff to deliver list of ordinary summonses served.
9 & 10 Vict. c. 95, s. 83 (k).

26. Seven clear days before the day of holding any court the high bailiff shall deliver to the registrar a list of all ordinary summonses on complaints before judgment, issued to him, returnable at such court, and shall state therein the mode of service or the cause of non-service of each summons, and the high bailiff shall, at the same time, unless the judge shall otherwise order, deliver to the registrar the copy of every such summons which has been served, and the summons itself when not served.

Notice of service or non-service of default summonses.
Form .

27. Within two days after the service of a default summons, the high bailiff of the court in the district of which it was to be served shall send notice thereof to the plaintiff according to the form in the schedule, and shall return the copy of the summons duly indorsed to the registrar of the court from which it issued, and where any such summons cannot be served within one month from the date of its issue, such high bailiff shall send to the plaintiff a notice stating why it has not been served, and shall send a similar notice at the end of every one month during which it shall remain in force and unserved.

Order book.

28. The high bailiff shall enter in the "order book" all orders for the payment of money or costs, or both, which he shall have received, and the date on which he shall have caused the same to be posted.

Warrants to be served.
Entries in warrant book.
9 & 10 Vict. c. 95, ss. 83 (l), and 94 (m).

29. The high bailiff shall execute every warrant issued to him, as soon as possible, and shall enter in the proper book every warrant which he has been required to execute, and shall state from time to time therein what he shall have done under each warrant, and if the same be not executed within one calendar month from the day of its delivery to him, why it has not been executed; and shall, at all reasonable times, give to a suitor, his solicitor or agent, every information that he may reasonably require as to the execution or non-execution of any warrant, which has been issued at his instance.

Moneys to be paid in within twenty-four hours.

30. Every high bailiff levying or receiving any money by virtue of any process issuing out of the court of which he is bailiff, shall, within twenty-four hours from the receipt thereof, pay over the same to the registrar of such court, who shall endorse upon the warrant a memorandum of having received the same, and the high bailiff shall file such process and retain the same in his custody.

Non-execution of warrant in foreign district.
9 & 10 Vict. c. 95, ss. 83 (l), and 104 (m).

31. Whenever a warrant required to be executed in a foreign district has not been executed within one calendar month from the day of its delivery, the high bailiff of the foreign court shall, on the day after the termination of such month, make a return to the registrar of the home court of what he shall have done under such warrant, and why it has not been executed, and when the same warrant has not been executed

(k) See Vol. I. p. 112, n.

(l) *Ibid.*

(m) See Vol. I. p. 80.

during the time it is in force such high bailiff shall return the same to the registrar of the home court within twenty-four hours from the expiration of such time, and shall indorse on such warrant the reason why the same could not be executed, and he shall sign such indorsement, but the high bailiff shall return such warrant to the home court at any time, although unexecuted, if he shall be directed so to do by the registrar of the home court, or shall give such information as such registrar may require in the matter of the warrant.

32. Where any personal property is directed to be sold by auction, detained, or preserved, the high bailiff shall, if the court so direct, superintend such sale, detention, or preservation; and where the property is to be sold by private contract, he shall carry out the directions of the court in respect of such sale, but this rule shall not apply to an execution issued under sect. 95 of the County Courts Act, 1846.

As to sale of personal property.

33. Where a warrant shall direct the high bailiff to detain and preserve any goods or chattels, he shall take and retain possession thereof until further order be made by the court thereon.

Possession.

34. Where a warrant shall direct the high bailiff to take possession of any goods or chattels until good security be given by some party for the safe keeping, or for the payment of the value of the same in default of such safe keeping, but shall not specify the amount of such security, he shall make or cause to be made an inventory or appraisement of the goods or chattels which he may take into his possession, and may, upon receiving as a deposit the amount of such appraisement or sufficient security, to be approved by the registrar, for the safe custody, and for the delivery up of possession upon request, of such goods and chattels, relinquish the possession thereof on condition that the same shall be redelivered to him or held to abide the order of the court. If the warrant shall specify the amount of security no less deposit or security shall be sufficient.

Where possession taken until security given.

ORDER III.

RECEIVER (n).

1. Every receiver appointed by the court, other than the high bailiff, shall give such security to the registrar for the faithful discharge of his duties, and the payment over of money, as the court shall direct.

Receiver.

2. The receiver shall submit his accounts to the registrar, and the registrar shall audit the same, as soon as conveniently may be after the receipt or realization of the assets, and immediately after such audit the receiver shall pay over to the registrar the balance found thereby to be in his hands. The account shall be written on foolscap paper book-wise, and the items of every account must be numbered consecutively, and the account must be verified by affidavit and be therein referred to as an exhibit.

Audit of receiver's accounts.

3. The registrar may require any receiver to produce any receipt, accounts, and vouchers necessary for verifying the accounts, and may disallow any item not proved to his satisfaction.

Receiver to produce vouchers.

4. The receiver shall, at any time before the complete realization of the assets, produce his accounts to be audited upon receiving seven days' notice in writing from the registrar so to do, and such notice may be sent by post or otherwise to the address of the receiver.

Accounts to be audited.

(n) Compare with the former Rules, Vol. II. pp. 86, 87.

Interval between audits.

5. Where the duties of the receiver are continuous, no longer period than one year shall in any case be allowed to intervene between each audit.

Attendance of party not required at audit.

6. In no case shall it be necessary for any party to attend at the audit of the receiver's account, but where a party is dissatisfied with a receiver's account he may apply to the judge or registrar for a revision of the registrar's allowances.

Court may direct receiver to pay party moneys received.

7. The court may order the receiver to pay over, at such time or from time to time as it shall see fit, to the party entitled to the beneficial interest therein, or to the guardian of any infant, any yearly or other accruing rents or interest instead of paying the same into court, and to take credit for such payments in his accounts when audited.

ORDER IV.

COMMENCEMENT OF ACTION.

Actions to be commenced by plaint.

1. All actions, suits, and proceedings in a county court which prior to 2nd November, 1875, were required by statute or otherwise to be commenced by entry of a plaint, shall henceforth be called actions, and shall be commenced by entering a plaint and issuing a summons in manner prescribed by "The County Courts Act, 1846" (o), and these rules.

Form .

Security for costs.

2. Where it shall appear, on an application for the entry of a plaint, that the plaintiff does not reside in England or Wales, the summons shall not be issued until security for costs, by deposit of money or otherwise, shall have been given to the satisfaction of the registrar: Provided that where the plaint is entered through a solicitor, an undertaking, according to the form in the schedule, to be responsible for the costs shall be sufficient.

Names, description and address of plaintiff and defendant to be given on entry of plaint.

Form .

3. No plaint shall be entered unless the plaintiff shall give the christian name and surname, description, and residence, or place of business of himself, and of the solicitor, if any, entering the plaint, and the surname (and where known, the christian name) and description, and, except as provided in the next following rule, the residence or place of business of the defendant (and, where known, the name of the street and number of such house or place of business), and the descriptions and addresses so given shall be inserted in such process or attached thereto.

Where plaint is entered by leave defendant's residence need not be given, but summons must be served personally.

4. Where a plaintiff applies to enter a plaint by leave of the judge or registrar in the county court within the district of which the defendant or one of the defendants dwelt or carried on business within six months next before the time of action brought, or in the county court in the district of which the cause of action wholly or in part arose, a summons may be issued, although the plaintiff cannot give the present place of residence or of business of the defendant; but in such case the defendant must be served personally, either within the district of the home court, or wherever else he may be met with.

Summons under 38 & 39 Vlt. c. 60, s. 1, not to issue in certain cases.

5. Where under section 1 of "The County Courts Act, 1875" (p), the leave of the judge or registrar is required for the issue of a summons in the form or to the effect given in Schedule B. to that act, such leave may be given in all cases except where the affidavit given in Schedule A. to the said act discloses that the defendant is a

(o) See Vol. I. p. 164.

(p) See *ante*, pp. 3, 4.

domestic or menial servant, a labourer, a servant in husbandry, a journeyman, an artificer, a handicraftsman, a miner, or any person engaged in manual labour, unless the action is for the price, value, or hire of goods which, or some part of which, were sold and delivered, or let on hire to the defendant to be used or dealt with in the way of his trade, profession or calling.

6. Where a plaint is entered by a solicitor, and he requires a default summons to issue, he may, at the time of the entry of the plaint, deliver to the registrar a notice in writing, according to the form in the schedule, signed by himself, stating that he wishes to serve the summons by himself or some clerk or servant in his permanent and exclusive employ, and it shall be so served accordingly; but if such notice be not given the summons shall be served by a bailiff of a county court: provided that where difficulty has been experienced in effecting service under this rule the summons may be served by leave of the judge or registrar by the party or by some clerk or servant in his permanent and exclusive employ.

Default summons may be served by solicitor.

Form .

7. Where any such summons has been served by the solicitor or his clerk or servant as aforesaid, a copy of such summons, together with an affidavit of the service thereof in the form given in the schedule, shall, within three clear days next thereafter, be delivered or transmitted to the registrar of the court issuing such summons, who shall forthwith file the same.

Copy of default summons and affidavit to be delivered to registrar.

8. Where a plaintiff requiring a default summons does not require the order upon the judgment to be for payment forthwith, he shall, at the time of the entry of the plaint, file a notice, signed by himself or his solicitor or agent, of the time or times at which, and of the instalments, if any, by which, he consents to accept payment, together with as many copies of such notice as there are defendants; and a copy of such notice shall be annexed to the summons, and served therewith; and if he neglects to file such notice he may give such notice at the time of entering up judgment.

Practice where plaintiff does not require payment forthwith.

9. Where an infant desires to commence an action (other than for wages or piece-work, or for work as a servant), he shall procure the attendance of a next friend, at the office of the registrar, at the time of entering the plaint; and no plaint shall be entered until the next friend has undertaken, according to the form in the schedule, to be responsible for costs, who, on entering into such undertaking, shall be liable in the same manner and to the same extent as if he were a plaintiff in an ordinary action; and the action shall proceed in the name of the infant by such next friend, and the undertaking shall be filed by the registrar; but no order of the court shall be necessary for the appointment of such next friend. If the plaintiff fail in, or discontinue his action, and do not pay the amount of costs awarded by the court to be paid by him to the defendant, proceedings may be taken for the recovery of such amount from the next friend as for the recovery of any debt ordered to be paid by the court.

Infant suing (7).

Form .

10. Where a plaint is entered by a married woman, she shall state the name and, so far as she can, the address and description of her husband; and shall, unless the court shall otherwise order, also procure the attendance of a next friend, who shall give the undertaking and incur all the liability in the last preceding rule provided in the case of an infant plaintiff.

Married woman suing.

ORDER V.

PARTIES.

All persons may be joined as plaintiffs in whom any right exists jointly, severally or in the alternative.

1. All persons may be joined as plaintiffs in whom the right to any relief claimed is alleged to exist whether jointly, severally, or in the alternative. And judgment may be given for such one or more of the plaintiffs as may be found to be entitled to relief, for such relief as he or they may be entitled to, without any amendment. But the defendant, though unsuccessful, shall be entitled to his costs occasioned by so joining any person or persons who shall not be found entitled to relief, unless the court in disposing of the costs of the action shall otherwise direct.

All persons may similarly be joined as defendants.

2. All persons may be joined as defendants against whom the right to any relief is alleged to exist, whether jointly, severally, or in the alternative. And judgment may be given against such one or more of the defendants as may be found to be liable, according to their respective liabilities, without any amendment.

All persons so joined need not be interested in all the relief prayed for.

3. It shall not be necessary that every defendant to any action shall be interested as to all the relief thereby prayed for, or as to every cause of action included therein; but the court or a judge may make such order as may appear just to prevent any defendant from being embarrassed or put to expense by being required to attend any proceedings in such action in which he may have no interest.

Persons may be joined as parties who are liable under any one contract.

4. The plaintiff may, at his option, join as parties to the same action all or any of the persons severally, or jointly and severally, liable on any one contract, including parties to bills of exchange and promissory notes.

Where plaintiff in doubt as to whom he is entitled to redress.

5. Where, in any action, whether founded upon contract or otherwise, the plaintiff is in doubt as to the person from whom he is entitled to redress, he may join two or more defendants, to the intent that in such action the question as to which, if any, of the defendants is liable, and to what extent, may be determined as between all parties to the action.

Trustees, executors and others may sue or be sued without joining parties beneficially interested.

6. Trustees, executors, and administrators may sue and be sued on behalf of or as representing the property or estate of which they are trustees or representatives, without joining any of the parties beneficially interested in the trust or estate, and shall be considered as representing such parties in the action; but the court may, at the trial, order any of such parties to be made parties to the action, either in addition to or in lieu of the previously existing parties thereto.

Married women and infants.

7. Married women and infants may respectively sue as plaintiffs by their next friends, and infants may defend any action by their guardians appointed for that purpose. Married women may also, by the leave of the registrar, sue or defend without their husbands and without a next friend, on giving such security (if any) for costs as the registrar may require.

Where parties numerous, one or more may sue or be sued or defend for the benefit of all.

8. Where there are numerous parties having the same interest in one action, one or more of such parties may sue or be sued, or may be authorized by the judge to defend in such action, on behalf or for the benefit of all parties so interested. Any application under this rule may be made to the judge either at the trial or in chambers under sect. 4 of the County Courts Act, 1875 (*r*).

Co-partners

9. Any two or more persons claiming or being liable as co-partners

(*r*) See *ante*, p. 6.

may sue or be sued in the name of their respective firms, if any; and on application by any party to an action in such case the registrar may order a statement of the names of the persons who are co-partners in any such firm to be furnished in such manner, and verified on oath or otherwise, as the registrar may direct: provided that where an action is brought against a firm and the plaintiff desires to obtain judgment against each member of the firm, he shall state the name of the persons whom he believes are co-partners in such firm, and file an affidavit and copy thereof setting forth the grounds of his belief, and the registrar shall thereupon attach to the summons a copy of such affidavit, together with a notice, according to the form in the schedule, that if sufficient cause be not shown at the trial the judge will order judgment against all the persons whose names have been so given and verified; and the judge may at the trial give judgment, if he thinks fit, against all the persons whose names have been inserted in such notice, and who shall have been served with the summons, with a copy of the affidavit, and notice annexed in the manner and within the time in which an ordinary summons should be served.

may sue and be sued in the name of their firm (and see Order XI, r. 9).
 Proviso as to judgment against members of firm.

Form

10. Where the action is brought under sect. 11 of the County Courts Act, 1867 (*s*), to recover any lands, all the persons in whom the title is alleged to be shall be plaintiffs, and the person or persons alleged to be in possession or apparent possession of the lands sought to be recovered shall be defendant or defendants.

Parties in action to recover land. 30 & 31 Vict. c. 142.

11. Subject to the provisions of these rules, the provisions as to parties, contained in section 42 of 15 & 16 Victoria, chapter 86 (*t*), shall be in force as to actions in the county courts.

Provisions of sect. 42 of 15 & 16 Vict. c. 86, in force.

(*s*) See Vol. I. p. 35.

(*t*) The provisions referred to of the 15 & 16 Vict. c. 86 (to amend the practice and course of proceeding in the High Court of Chancery), although referred to and abstracted, Vol. II. pp. 88, 89, being now applied to actions, are given in full:

Sect. 42. "It shall not be competent to any defendant in any suit in the said court to take any objection for want of parties to such suit, in any case to which the rules next hereinafter set forth extend; and such rules shall be deemed and taken as part of the law and practice of the said court, and any law or practice of the said court inconsistent therewith shall be and is hereby abrogated and annulled.

Rule 1. "Any residuary legatee or next of kin may, without serving the remaining residuary legatees or next of kin, have a decree for the administration of the personal estate of a deceased person.

Rule 2. "Any legatee interested in a legacy charged upon real estate, and any person interested in the proceeds of real estate directed to be

sold, may, without serving any other legatee or person interested in the proceeds of the estate, have a decree for the administration of the estate of a deceased person.

Rule 3. "Any residuary devisee or heir may, without serving any co-residuary devisee or co-heir, have the like decree.

Rule 4. "Any one of several *cestui que trusts* under any deed or instrument may, without serving any other of such *cestui que trust*, have a decree for the execution of the trusts of the deed or instrument.

Rule 5. "In all cases of suits for the protection of property pending litigation, and in all cases of the nature of waste, one person may sue on behalf of himself and of all persons having the same interest.

Rule 6. "Any executor, administrator or trustee may obtain a decree against any one legatee, next of kin, or *cestui que trust*, for the administration of the estate, or the execution of the trusts.

Rule 7. "In all the above cases, the court, if it shall see fit, may require any other person or persons to

ORDER VI.

JOINDER OF CAUSES OF ACTION.

What claims may be joined with action for recovery of land.

Joinder of claims by trustee in bankruptcy.

Joinder of causes of action generally.

Claims by husband and wife.

Claims by executor or administrator.

Joint and separate claims by plaintiffs.

Separate trials may be ordered.

Actions by and against lunatics and persons of unsound mind.

1. No cause of action shall, unless by leave of the judge, be joined with an action for the recovery of land, except claims in respect of mesne profits, or arrears of rent in respect of the premises claimed, or any part thereof, or damages for breach of any contract under which the same or any part thereof are held.

2. Claims by a trustee in bankruptcy as such shall not, unless by leave of the judge, be joined with any claim by him in any other capacity.

3. Subject to the two preceding rules a plaintiff may unite in the same action several causes of action, without leave of the court.

4. Claims by or against husband and wife may be joined with claims by or against either of them separately.

5. Claims by or against an executor or administrator as such may be joined with claims by or against him personally, provided the last-mentioned claims are alleged to arise with reference to the estate in respect of which the plaintiff or defendant sues or is sued as executor or administrator.

6. Claims by plaintiffs jointly may be joined with claims by them or any of them separately against the same defendant.

7. If at any time it appears or is made to appear to the court that the causes of action united or claims joined in any action cannot be conveniently tried and disposed of together, it may order separate trials, or may exclude any such cause of action or claim, and may order the particulars to be amended accordingly, and may make such order as to costs as may be just.

8. In all cases in which lunatics and persons of unsound mind not so found by inquisition might respectively before the 1st November, 1875, have sued as plaintiffs or would have been liable to be sued as defendants in any action or suit, they may respectively sue as plaintiffs in any action by their committee or next friend in manner practised in the

be made a party or parties to the suit, and may, if it shall see fit, give the conduct of the suit to such person as it may deem proper, and may make such order in any particular case as it may deem just for placing the defendant on the record on the same footing in regard to costs as other parties having a common interest with him in the matters in question.

Rule 8. "In all the above cases the persons who, according to the present practice of the court, would be necessary parties to the suit, shall be served with notice of the decree, and after such notice they shall be bound by the proceedings in the same manner as if they had been originally made parties to the suit, and they may by an order of course have liberty to attend the proceedings under the decree; and any party so served may, within such time as shall in

that behalf be prescribed by the general order of the Lord Chancellor, apply to the court to add to the decree.

Rule 9. "In all suits concerning real or personal estate which is vested in trustees under a will, settlement or otherwise, such trustees shall represent the persons beneficially interested under the trust, in the same manner and to the same extent as the executors or administrators in suits concerning personal estate represent the persons beneficially interested in such personal estate; and in such cases it shall not be necessary to make the persons beneficially interested under the trusts, parties to the suit; but the court may, upon consideration of the matter, on the hearing, if it shall so think fit, order such persons, or any of them, to be made parties."

Court of Chancery before the passing of the said act (*u*), and may in like manner defend any action by their committees or guardians appointed for that purpose.

ORDER VII.

PARTICULARS AND STATEMENT OF CLAIM.

1. A plaintiff shall in all cases at the time of the entry of the plaint, file particulars of his demand or cause of action ; and where the demand exceeds fifty pounds, but the plaintiff desires to abandon the excess or to admit a set-off, and sues in a county court for the residue, the abandonment of the excess or the admission of the set-off shall be entered at the end of the particulars ; provided that this rule shall not apply where the sum is sought to be recovered by ordinary summons and shall not exceed forty shillings. Particulars in cases above 40s. to be filed.

2. In all cases of ordinary account, such as partnership, executorship, or ordinary trust accounts, where the plaintiff in the first instance desires to have an account taken, the particulars shall contain a claim that such account be taken. Particulars in cases of account.

3. In all cases where the assignee of any debt or other legal chose in action sues, he shall state on his particulars the name and description of the assignor. Particulars where assignee suing.

4. The solicitor of a plaintiff suing by a solicitor, shall indorse on the particulars his name, or firm, and place of business, and shall state thereon whether he will accept service of proceedings in the action or matter on behalf of the plaintiff. Entry of plaint by a solicitor.

5. Where the action is brought under sect. 11 of the County Court Act, 1867 (*x*), to recover any lands, the plaintiff shall at the time of entering the plaint file a statement in writing containing a full description of the property sought to be recovered and of the annual value thereof, and of the rent, if there be any, fixed or paid in respect thereof. Particulars in action under 30 & 31 Vict. c. 142, s. 11.

6. Where an action is brought under sect. 12 of the County Courts Act, 1875 (*y*), other than actions to recover possession of lands, whatever the amount of damages claimed may be, the plaintiff shall, at the time of the entry of the plaint, file a concise statement in writing, signed by himself or his solicitor, of his cause of action, and of the particulars thereof. Particulars in actions under 30 & 31 Vict. c. 142, s. 12.

7. Where the plaintiff seeks to obtain payment or satisfaction, or relief, redress, or remedy upon more than one cause of action or claim, he shall state in his particulars the grounds of each claim separately, and shall also state separately the payment or satisfaction, relief, redress, or remedy he claims in respect of each. Particulars where more than one cause of action.

8. In all actions the defendant may within three clear days of his being served with the summons give notice to the plaintiffs that he Notice of further particulars may be given.

(*u*) The act, which is imperfectly referred to, is "The Supreme Court of Judicature Act, 1875" (38 & 39 Vict. c. 77), which contains an order (First Schedule, Order XVIII.) from which r. 8 in the text is taken. It may be here observed, that under "The Trustee Act, 1850," the Lord Chancellor, as distinguished from the Court of Chancery, has the power

there mentioned over the estate of lunatic trustees, and the summary of the act, Vol. II. p. 19, requires correction. The county courts have no jurisdiction in such a case.

(*x*) See Vol. I. p. 35.

(*y*) A misprint for 1867. See the section (as correctly referred to in the margin) Vol. I. p. 36.

Practice
where such
notice is
given.

requires further particulars, and the plaintiff shall, within two clear days of such service, file full particulars of his claim and of the relief or remedy to which he claims to be entitled, and within the same time shall deliver to the defendant a copy thereof. Such particulars shall be written on paper of the description heretofore used in suits in equity, and shall state as concisely as may be the material facts on which the plaintiff relies, and shall be divided into paragraphs numbered consecutively, and each paragraph containing as nearly as may be a separate allegation. Dates, sums, and numbers shall be expressed in figures and not in words. The court in adjusting the costs of the action shall inquire at the instance of any party into any prolixity, and shall order the costs occasioned by such prolixity to be borne by the party chargeable with the same.

Fraction of a
penny.

9. Where the amount claimed in any case includes a fraction of a penny, such fraction shall not be entered in the books of the court, and judgment shall not be given for any fraction of a penny.

ORDER VIII.

PLAINT NOTE AND SUMMONS.

Plaint note.
9 & 10 Vict.
c. 95, s. 59 (z).
Form .

1. At the time of entering the plaint the registrar shall give to the plaintiff or his solicitor or agent a note under the seal of the court, according to the form in the schedule; and no money shall be paid out of court to the plaintiff or his solicitor or agent, unless on production of such note or a duplicate note as hereafter provided, provided that in the event of such note being lost or destroyed, a duplicate thereof may be given from time to time to the plaintiff, or his agent duly authorized in that behalf, upon proof by affidavit or otherwise, to the satisfaction of the registrar, that the person applying is the plaintiff, or his agent authorized in that behalf, and that he is entitled to the moneys payable in the action.

Summons on Plaint.

Date of sum-
mons.
9 & 10 Vict.
c. 95, s. 59 (z).
Form .

2. Summonses to appear to a plaint shall be according to the forms in the schedule, and shall be dated of the day on which the plaint was entered, and the date thereof shall be the commencement of the action.

Where issued
by leave of
judge or
registrar.

3. Where a summons is issued by leave of the judge or registrar, the words "by leave of the judge" or "by leave of the registrar," as the case may be, shall appear on the face of the summons.

Particulars to
be deemed
part of sum-
mons.

4. In all cases the particulars where required to be filed shall be annexed to the summons before service, and shall be deemed to be part thereof.

Ordinary Summons and Service.

Ordinary
summons
when return-
able.

5. An ordinary summons may be returnable either at the court for which plaints are then being entered, or at the request of the plaintiff at any subsequent court.

Successive
summonses.

6. Where an ordinary summons has not been served, successive summonses may be issued without entering a new plaint, unless the non-service has been caused by the fact of the defendant's having removed from the address given before the entry of the plaint, or of the

(z) See this section, Vol. I. p. 65.

plaintiff having given a wrong or insufficient address, but if the bailiff shall ascertain that the defendant has removed to some other place within the district of the court, he shall serve the summons at such other place, indorsing on the copy thereof the new address; and the successive summons or summonses shall bear the same date and number as the summons first issued, which date and number shall be written in red ink in the "Plaint Book," and such summonses shall be a continuance of the first summons; provided that no successive summons shall be issued on a plaint after three months from the date of entry, save as is provided in the next following rule.

7. The summons in an action brought under sect. 11 of the County Courts Act, 1867 (a), to recover lands shall be delivered to the bailiff forty^o clear days at least before the return-day, and shall be served thirty-five clear days before the return-day thereof.

8. An ordinary summons to appear to a plaint (except in actions as aforesaid to recover lands), where it is to be served in the home district, should, in order to ensure its service, be delivered to the bailiff at least twelve clear days, and where it is to be served in a foreign district fifteen clear days before the return-day, but it shall, in either case, be served at least ten clear days before the return-day thereof; provided that a summons may be issued at any time before the return-day, on production by the plaintiff to the registrar of an affidavit showing that the defendant is about to remove out of the ordinary jurisdiction of the court or of that of the court in which he then resides; and service of such summons at any time before the return-day may be deemed good service, if at the hearing, the judge is satisfied on the evidence on oath before him, that such party was about to remove out of the ordinary jurisdiction of the court, but in every such case, whether such proof be given or not, the judge may, in his discretion, and on such terms as he shall think fit, adjourn the hearing.

9. The service of an ordinary summons, except in the cases hereinafter specially provided for, may be either personal, or by delivering the same to some person, apparently not less than sixteen years old, at the house or place of dwelling, or place of business, of the defendant, unless the bailiff shall ascertain that the defendant has removed to some other place within the district, in which case he shall serve the summons at such last-mentioned place. No place of business shall be deemed the place of business of the defendant unless he shall be the master or one of the masters thereof.

10. When an infant is a defendant to the action, service on his or her father or guardian, or if none then upon the person with whom the infant resides, or under whose care he or she is, shall, unless the judge or registrar otherwise orders, be deemed good service on the infant; provided that the judge or registrar may order that service made on the infant shall be deemed good service.

11. When a person of unsound mind is a defendant to the action, service on his committee, if he has one, or if not then on the person with whom such person resides, or under whose care he or she is, shall, unless the court otherwise orders, be deemed good service on such defendant.

* "It is necessary to give this time to enable a defendant to avail himself of sect. 12 of 30 & 31 Vict. c. 142." (Note appended to the official copies of the Rules. See s. 12, referred to, *ante*, Vol. I. p. 36.)

Delivery and service of summons in action under 30 & 31 Vict. c. 142, s. 11.

When ordinary summons is to be delivered for service.

9 & 10 Vict. c. 95, s. 59 (b).

Time of service.

Mode of service.

Service on infant.

Service on a lunatic.

(a) See the section, Vol. I. p. 35.

(b) See this section, Vol. I. p. 65.

Service on
partners.

12. Where partners are sued in the name of their firm, the summons shall be served either upon any one or more of the partners, or at the principal place of the business in England of the partnership upon any person having apparently at the time of service the control or management of the partnership business there, and such service shall be deemed good service on the firm.

Service where
defendant on
board ship.

13. Where a defendant is living or serving on board of any ship or vessel, it shall be sufficient service to deliver the summons to the person on board who is, at the time of such service, apparently in charge of such ship or vessel.

Service on a
soldier.

14. Where a defendant is residing or quartered in any barracks, and serving Her Majesty as a soldier or marine, it shall be sufficient service to deliver the summons at the barracks to the adjutant of the corps, or to any officer or serjeant of the company or troop to which such soldier or marine belongs.

Service on a
prisoner.

15. Where a defendant is a prisoner in a gaol, it shall be sufficient service to deliver the summons at the gaol to the governor or any person appearing to be the head officer in charge thereof.

Service on a
miner.

16. Where a defendant is working in any mine or other works underground, it shall be sufficient service to deliver the summons at the mine or works, to the engine-man, banks-man, or other person apparently in charge of the mine or works.

Service where
defendant
employed in
a public
asylum or
prison.

17. Where the defendant is employed and dwells in any lunatic or other public asylum, or in any common gaol or house of correction, it shall be sufficient service to deliver the summons to the gate-keeper or lodge-keeper of the asylum, gaol, or house of correction.

Service on a
corporation.

18. Service of the summons may be effected on a railway company or other corporation by delivering the summons to a secretary, station master, or clerk of the defendant, at any station or office of the defendant within the district of the court in which the summons is to be served.

Where de-
fendant keeps
his house
closed.

19. Where a defendant keeps his house or place of dwelling or place of business closed, in order to prevent a bailiff from serving the summons, it shall be sufficient service to affix such summons on the door of such house or place of dwelling or place of business.

Service in
case of vacant
possession.

20. Where the action is to recover any lands or tenements, the summons may, in case of vacant possession, or if the defendant cannot be found, and his place of abode shall not be known, or admission thereto cannot be obtained for serving the summons, be served by posting a copy of such summons upon the door of the dwelling-house or other conspicuous part of the property, and such affixing shall be deemed good service on the defendant.

Service where
violence
threatened.

21. Where a bailiff is prevented by the violence or threats of the defendant, or of any other person or persons in concert with him, from personally serving such summons, it shall be sufficient service to leave such summons as near to the defendant as practicable.

Where ser-
vice has not
been personal.

22. Where the summons, though not served personally, has been delivered at the house or place of dwelling or place of business of defendant, and the defendant does not appear, in person or by his solicitor or agent, at the return-day, the action may proceed if the court is satisfied, on the evidence before it, that the service of such summons has come to the knowledge of the defendant before the return-day, but no such evidence shall be necessary in the cases specially mentioned in the rules numbered 17, 18, 19, 20 and 21 in this order (c).

(c) See observations as to the provisions of the County Court Act, 1875,

as to proof of service by bailiff's indorsement.

23. Whenever, by any statute, provision is made for service of any writ of summons, bill, petition, or other process upon any corporation, or upon any hundred, or the inhabitants of any place, or any society or fellowship, or any body or number of persons, whether corporate or otherwise, the summons may be served in the manner so provided.

Service of summons in pursuance of statute.

24. Whenever a summons has been served in one of the modes hereinbefore mentioned, but it appears that it has come to the knowledge of the defendant less than ten clear days before the return-day, the action may, at the discretion of the court, proceed or be adjourned, whether the defendant appears or not on such return-day.

Where summons has come to the knowledge of defendant less than ten days before return-day.

25. Where a summons shall issue under sect. 18 of the County Courts Act, 1856 (*d*), the same shall be served by the bailiff of the district within which the defendant shall dwell or carry on business, unless the judge shall in each case otherwise specially order; provided that this rule shall not interfere with the general power, now vested in the bailiff of the court from which the summons has issued, to serve the same within five hundred yards of the boundary of his district.

Where summons issues under sect. 18 of 19 & 20 Vict. c. 108.

26. The above rules as to the mode, but not those as to the time, of service of summonses to appear to a plaint, shall apply to the mode of service of all summonses whatsoever, except where otherwise directed by statute or by these rules.

Service of summonses other than on entry of plaint.

Default Summonses and Service.

27. Default summonses must be personally served within a period of six months of their date.

Service of default summons.

28. A default summons may be served in any district in which the defendant may be met with.

Default summons may be served in any district.

29. Where a default summons has not been returned to the registrar within six months from the date of its issue, unless the time for its service has been extended, it shall be struck out of the plaint book.

When default summons may be struck out.

30. Where a husband and a wife living together are both defendants to an action, in cases where personal service is required such service on the husband shall be deemed good service on the wife, but the judge or registrar may order that the wife shall be personally served as well as the husband.

Where husband and wife are joined.

31. Where service of a default summons has been effected, and no notice of intention to defend been given, judgment shall not be signed after six months from the date of service; but if any defendant therein named shall not have been served therewith, the plaintiff may, before the expiration of the twelve months, apply to the registrar, and if he is satisfied that reasonable efforts have been made to serve such defendant or for other good reason, may issue a successive summons without fee for a further period of six months and so from time to time during the currency of the successive summons, and such successive summonses shall be a continuance of the action on and from the day on which the plaint was entered.

Limitation of time for signing judgment of default summons.

32. Where a default summons has been served in due time to prevent the operation of a statute of limitations, and either party dies after the service and after the lapse of the period within which it is provided that an action may be brought, proceedings may be taken by or against the surviving party, or by or against the personal representative of the deceased party, within one year from the day of service of the summons.

Where either party dies after service of summons to save statute.

(*d*) See this section, Vol. I. p. 146, and the observation upon it, note (*h*) of same page.

Substituted
service of
summons
under 18 &
19 Vict. c.
67 (*f*).

33. The provision of section 1 of County Courts Act, 1875 (*e*), as to where personal service cannot be effected, shall apply to the failure of service of a summons issued under the Bills of Exchange Act, 1855.

ORDER IX.

SPECIAL DEFENCES.

Where plain-
tiff sues on
behalf of
others.

1. Where a plaintiff sues on behalf or for the benefit of others having the same interest, the defendant may avail himself of any defence in respect of each of the persons in whose behalf or for whose benefit the plaintiff so sues which he would have had against either or any of such persons if they or he had been plaintiff.

Where de-
fendant de-
sires to defend
on behalf of
others.

2. Where a defendant desires to defend on behalf or for the benefit of others having the same interest, he shall, within two clear days of the date of service of the summons on him, apply to the registrar for leave so to defend, and shall file an affidavit of the facts upon which he relies to obtain such leave, together with the names, addresses, and occupations of such persons, and the registrar may thereupon make an order for the defendant so to defend, and shall add the names to that of the defendant in the plaint or minute book, and a copy of such order shall be personally served on each of such persons, and notice sent the plaintiff according to the form in the schedule: provided that the plaintiff or any of the persons whose names have been so added may, at the trial, object to the defendant defending on behalf of all or any of the persons as to whom such order has been made, and the judge may, if he think fit, strike the name of all or any of such persons out of the proceedings, and order the defendant to pay such costs as he shall think fit.

Form .

In actions
under 30 & 31
Vict. c. 142,
s. 11, any per-
son not
named as a
defendant
may, by
leave, ap-
pear.

3. In actions brought under section 11 of the County Courts Act, 1867 (*g*), to recover lands, any person not named as a defendant in the summons shall, by leave of the registrar, be allowed to appear and defend on filing twelve clear days before the return-day an affidavit, together with as many copies thereof as there are plaintiffs and defendants, showing that he is in possession, either by himself or his tenant, of the property or some part thereof mentioned in the particulars (such part being described in the affidavit with reasonable certainty); and upon such affidavit being filed, the registrar shall enter the name, address, and description of the person filing the same in the plaint book as a defendant in addition to the name or names of the person or persons originally made defendant or defendants; and shall, ten clear days before the return-day, give notice, by post or otherwise, to the plaintiffs and the original defendants, that the person filing the affidavit has filed the same, and will appear and defend at the trial of the action, annexing to each notice a copy of the affidavit.

In actions
under 30 &
31 Vict. c. 142,
s. 11, de-
fendant may
give notice
that he will
limit his de-
fence to part
of the pro-
perty.

4. In actions brought under section 11 of the County Courts Act, 1867 (*h*), to recover lands, any defendant may, twelve clear days before the return-day, file a notice in writing signed by himself or his solicitor to the registrar, that he intends to limit his defence to a part only of the property mentioned in the particulars describing that part in such notice with reasonable certainty; and the registrar shall, ten clear days before the return-day, send the same by post to the plaintiff or plaintiffs.

(*e*) See the section, *ante*, pp. 3, 4.

(*f*) See Vol. I. pp. 189, 190.

(*g*) See Vol. I. p. 35.

(*h*) Misprinted 1875 in the first issue of Rules.

5. A defendant intending to avail himself of the power given by section 39 of the County Courts Act, 1856 (*i*), to object to an action being tried in the county court, shall give notice personally or by post of such intention to the registrar and to the plaintiff five clear days before the return-day, according to the form set forth in the schedule; and shall therein name the parties whom he proposes to be his sureties, or state therein his willingness to deposit money in lieu of giving security, and if he shall fail to give such security or make such deposit before the return-day, or shall fail to give such notice of his intention to object as aforesaid, he shall not be entitled to object to the action being tried in the county court.

Objection to jurisdiction of court.
19 & 20 Vict.
c. 109, s. 89.
Form •

6. Where a plaintiff avails himself of the provisions of section 68 of the County Courts Act, 1846 (*h*), and proceeds against only one or more of several persons jointly answerable, the defendant or defendants sued may avail himself or themselves of any defence or counter-claim to which he or they would be entitled if all the persons liable were made defendants.

Where one of several persons jointly answerable is sued.
9 & 10 Vict.
c. 95, s. 68.

7. Where the defendant intends to rely upon any of the grounds of defence hereinafter mentioned in this order, he shall file a notice stating thereon his name and address, together with a concise statement of such grounds, five clear days before the return-day of the summons; and the registrar shall thereupon, within twenty-four hours after receiving the same, transmit by post one copy of such notice and particulars to the plaintiff: provided that in case of non-compliance with these rules, and of the plaintiff's not consenting at the trial to permit the defendant to avail himself of such defence at the trial, the judge may, on such terms as he shall think fit, adjourn the trial of the action to enable the defendant to give such notice.

Notice to be given of special defences.

8. Where the defendant intends to rely upon a set-off of any debt or liquidated money demand, his statement shall contain particulars of the account upon which he claims the set-off to be due.

Set-off.

9. Where a defendant intends to rely on the defence of infancy, he shall in his statement set forth, so far as he is able, the place and date of his birth.

Infancy.
9 & 10 Vict.
c. 95, s. 76 (*l*).

10. Where a female defendant intends to rely on the defence of coverture, she shall in her statement set forth, so far as she is able, the place and date of marriage, together with the christian name and surname of her husband, and his address and description so far as known.

Coverture.
9 & 10 Vict.
c. 95, s. 76 (*m*).

11. Where a defendant intends to rely on the defence of any statute of limitations, he shall in his statement state the date from which he relies that the statute began to run.

Statute of Limitations.
9 & 10 Vict.
c. 95, s. 76 (*n*).

12. Where a defendant intends to rely on the defence of a release under any statute relating to bankrupts, or for the relief of insolvent debtors, he shall in his statement set forth the date of his certificate, discharge, or final order, and the court by which such certificate, discharge, or final order was granted or made.

Bankruptcy.
9 & 10 Vict.
c. 95, s. 76 (*o*).

13. Where in any action for libel or slander the defendant relies as a

Defence that

(*i*) See Vol. I. p. 42.

(*h*) See Vol. I. p. 180.

(*l*) See the section referred to, Vol. I. p. 202. As to the defence of infancy, see Vol. I. p. 519, and *ante*, p. 20.

(*m*) See as to this defence, Vol. I. p. 523.

(*n*) As to this defence, see Vol. I. p. 571.

(*o*) As to this defence, see Vol. I. p. 590.

libel or slander is true.
80 & 81 Vict.
c.142, s.10 (p).

Statutory
defence.

Equitable
relief.

Tender.

defence upon the fact that the libel or slander is true, he shall in his statement set forth that the libel or slander complained of is true in substance.

14. When in any action of tort the defendant relies upon a statutory defence, he shall in his statement set forth the year, chapter, and section of the statute on which he relies, or the short title thereof.

15. Where a defendant claims to be entitled as matter of defence to any equitable estate or right, or to relief upon any equitable ground against the claim of the plaintiff, or any part thereof, he shall five clear days before the return-day file a concise statement in the estate or right he so claims, and shall show concisely the circumstances which give rise to such defence, and set forth separately each of the grounds of equitable defence.

16. Where the defence is a tender, such defence shall not be available unless, before or at the trial of the action, the defendant pays into court (which may be without costs) the amount alleged to have been tendered.

ORDER X.

COUNTER-CLAIM AND OTHER CLAIMS BY DEFENDANT.

Notice of
counter-claim
or claim to
contribution,
indemnity,
&c. to be
given.

Form .

A person not
a party served
under last
rule may
apply to
judge for
directions as
to conduct of
action.

Where a
counter-claim
made any
party may
apply to
judge for dis-
allowance.

Where a
counter-claim
registrars may
postpone
trial.

1. Where a defendant in an action sets off, or sets up, by way of counter-claim against the claims of the plaintiff, any right or claim, whether such set-off or counter-claim sound in damages or not, and where a defendant is or claims to be entitled to contribution, indemnity, or other remedy or relief over against any other person the defendant shall seven clear days before the return-day file a concise statement of his counter or other claim, containing the grounds upon which he makes the same, and where the person against whom he makes the claim is not the plaintiff, such person's name, address, and description; and the registrar shall thereupon make out and cause to be forthwith served by the bailiff or the defendant's solicitor upon the plaintiff and the person against whom such claim is made a notice according to the form in the schedule, with a copy of the claim of the defendant annexed thereto; and the person so served shall from the time of such service, for all purposes, be in the same position as if he were a defendant served with an original summons with the notice of claim annexed thereto as a plaintiff's particulars.

2. Any person served with a notice under the last preceding rule, may upon giving four days' notice of such application to all parties interested, apply before the trial to the judge for directions as to the conduct of the action, and as to any proceedings or notices therein, and upon such application the judge may make such order and give such directions as he shall think fit.

3. A person served with notice of counter-claim under rule 1 of this Order may apply to the judge for an order that such counter-claim be not allowed, and upon such application the judge may make such order and give such directions as he shall think fit.

4. Upon any counter-claim or other claim being made under rule 1 of this Order the registrar shall have authority to order the postponement of the trial to a day to be appointed by him, having regard to the nature of such claim, and of the proceedings likely to arise thereon, and upon such postponement notice thereof shall be given by the registrar to all parties interested.

(p) See this section, Vol. I. p. 448.

ORDER XI.

INTERLOCUTORY AND INTERIM ORDERS AND PROCEEDINGS.

1. Where any party desires before trial an order upon any of the matters following, (that is to say,) an order in the nature of an injunction or an order of court for the production of any deed, for the appointment of a receiver, or to secure the possession, detention or preservation of any property, or to obtain security from any person for any monies in his possession, or to enforce the deposit or payment into court thereof pending litigation, or the sale of any goods, wares or merchandise which may be of a perishable nature, or which the court may think desirable to have sold at once, and the payment of the price thereof into court, or for the inspection or taking samples of any goods, wares, or merchandize, or for measuring, weighing, or making any experiment upon any goods, wares, or merchandize, or for surveying, measuring, or making any plan, level, or section of any building or place, or for a view of any premises that may be in dispute, or the taking any accounts or making any inquiries, he may file an application for such order, and apply ex parte to the judge, either in or out of court, upon affidavits setting forth the facts rendering such order immediately necessary, and upon such application the judge may either make an order absolute in the first instance, or make an order to be absolute at any time to be ordered by him unless cause be shown to the contrary, or may make such other order or give such directions in the matter as the judge may think fit, and may order immediate execution.

Mode of application for interlocutory or interim order.

2. Where an action is brought to recover, or a defendant in his statement of defence seeks by way of counter-claim to recover specific property other than land, and the party from whom such recovery is sought does not dispute the title of the party seeking to recover the same, but claims to retain the property by virtue of a lien or otherwise as security for any sum of money, the judge upon being satisfied by affidavit or otherwise of the existence of such lien or security, may order that the party seeking to recover the property be at liberty to pay into court, to abide the event of the action, the amount of money in respect of which the lien or security is claimed, and such further sum (if any) for interest and costs as such judge may direct, and that upon such payment into court being made, the property be given up to the party seeking to recover it.

Where specific property other than land is sought to be recovered.

3. The draft of all orders under the last two preceding rules shall be prepared beforehand by the party applying, and be settled by the registrar of the court, and when the party makes such application he shall present the draft order to the judge for his approval, and the judge if he approves thereof shall sign the same.

Draft orders to be prepared by registrars.

4. The draft so signed shall be transmitted by the applicant to the registrar of the court, who shall draw up the order in conformity therewith, and seal and file the same, and issue a copy thereof under the seal of the court to the bailiff or party's solicitor for service.

Registrar to draw up orders in conformity with draft settled by judge.

5. Where the residence or place of business of a defendant is more than twenty miles from the court in which the plaint is entered, he may, not later than two clear days from the date of service of the summons thereon forward by registered post letter to the registrar of such court an affidavit disclosing a good defence upon the merits to the action. The registrar upon receipt of such affidavit if satisfied that it discloses such a defence shall forthwith by notice, according to the form in the

Deposit may be ordered where defendant resides twenty miles from court.

Form .

Forms .

Order may authorize entry upon lands for the purpose of executing order.

Registrar to take deposition of person ordered to weigh, inspect, &c.

Receiver may be appointed though not asked for.

Application for names of firm in an action by a firm.

schedule, call upon the plaintiff to deposit in court, within two clear days from the date of the notice, such a sum as the registrar may, having reference to all the circumstances of the case, therein direct. The registrar shall, where the deposit is made or not made, or the affidavit does not disclose a defence, send notice according to the forms in the schedule to the defendant, and where the deposit is not duly made the action shall be struck out.

6. An order for inspecting, surveying, measuring, or for making any plan or model, may also give authority to any person, to be named in such order, to enter with such persons as may be necessary for his assistance, upon any lands or tenements to be described in such order, in the possession of any party to the action, for the purpose of executing the said order.

7. Where an order is made for inspecting, surveying, measuring, weighing, making any experiment, or for taking any sample, or making any plan or model, by any person to be named therein, such order may include an order for the registrar or some other person to be named therein, to examine upon oath and take the deposition of the person so named, as to such measure, weight, or inspection, or the correctness of such survey, or the result of such experiment, or the fairness of such samples, or the accuracy of such plan or model, and such order may also empower any or either party to give the deposition so taken in evidence upon any trial or proceeding.

8. Where before or at the trial of any action it appears to the court expedient that a receiver be appointed, such appointment shall be made whether the same be asked as part of the relief in the plaint or not.

9. Where an action is brought in the name of a firm and the defendant desires to know the names of the persons who are co-partners in such firm, he shall give notice in writing, within three days after the service of the summons, to the plaintiff that he requires such names, and the plaintiff shall forthwith send by post to the defendant so applying and to the registrar the names and addresses of such persons. Provided that the judge may at any time without such notice order the plaintiff to give to any defendant the names of such persons. Provided also, that if from the names of the members of the co-partnership not being given by the plaintiff before entering the plaint, or from any delay in giving the same upon the before-mentioned notice, the defendant is prevented or unduly delayed in making his defence, the judge may adjourn the hearing upon such terms as he may think fit.

ORDER XII.

DISCONTINUANCE, DISCLAIMER, ADMISSION, AND PAYMENT INTO COURT.

Discontinuance of action.

1. If the plaintiff desires to discontinue the action or matter against all or any of the parties thereto, he may give notice in writing thereof to the registrar, and the registrar shall forthwith forward a notice according to the form in the schedule, by post or otherwise, to the party or parties as to whom the plaintiff so desires to discontinue the action, and such party shall not be entitled to any further costs than those incurred up to the receipt of the notice, unless the court shall otherwise direct.

Disclaimer, admission and other

2. The defendant may file a statement disclaiming any interest in the subject matter of the action, or admitting or denying any of the state-

ments in a plaintiff's particulars, or raising any question of law on such statements without admitting the truth thereof; or he may therein state concisely any new fact or document upon which he intends to rely as a defence, or to bring to the notice of the court; and a copy thereof shall be transmitted by the registrar to the plaintiff: provided always, that in exercising his discretion as to costs, the judge shall consider the fact of a defendant having or not having availed himself of the powers given by this rule.

3. Where a defendant desires to admit the truth of the statement in the plaintiff's particulars, and to submit to the judgment of the court thereon, he may at any time before the return-day, in the presence of a registrar of a county court, or in the presence of one of his clerks, or of a solicitor, sign an admission in the form contained in the schedule to these orders; and the signature of the defendant thereto shall be verified by affidavit, unless signed in the presence of a registrar of a court, or of one of his clerks, and such admission shall be filed at least five clear days before the return-day; and the registrar shall transmit a copy thereof by post to the plaintiff or his solicitor; and the plaintiff shall not, unless the judge shall otherwise order, be allowed any costs incurred after the service upon him of such admission in relation to the proof of the matter so admitted: provided that the plaintiff or his solicitor shall be entitled, notwithstanding such admission, to his costs of attending on the day of trial to enter up judgment and tax his costs.

4. Where the defendant is desirous of paying money into court on an ordinary summons, he shall, except where otherwise expressly provided, pay the same at least five clear days before the return-day, with court fees proportionate to the amount paid in, and the solicitor's costs, if any; and the registrar shall within twenty-four hours from the time of such payment send to the plaintiff notice thereof by post: provided, that at any time before the return-day the defendant may pay money into court, with such costs as aforesaid, and the registrar shall give notice thereof to the plaintiff as aforesaid; but where money is so paid in less than five clear days before the return-day, or without such costs, it shall be lawful for the court to order the defendant to pay such fees and costs as the plaintiff shall have properly incurred in entering the plaint, preparing for trial, and in attending the court, but no hearing fee shall be charged.

5. If the plaintiff elect to accept, in full satisfaction of his claim, including costs, such money as shall have been paid into court by the defendant, and shall send to the registrar and to the defendant by post, or leave at the registrar's office and at the defendant's place of dwelling or place of business, a written notice, stating such acceptance, within such reasonable time before the return-day as the time of payment by the defendant has permitted, the action shall abate, and the plaintiff shall not be liable to any further costs. But in default of such notices from the plaintiff the action may proceed.

6. Where a defendant pays into court any sum admitted by him to be due after deducting any amount he may claim as a set-off he must pay therewith court fees proportionate to the total amount of the sum admitted, together with the sum he claims to set-off.

7. Where a defendant, in an action of libel remitted under sect. 10 of

(*q*) Misprinted c. 96 in the first issue of Rules. (*r*) See the section, Vol. I. p. 199.

statements
by defendant.

Admission of
truth of plain-
tiff's state-
ment.

Form .

Payment into
court before
judgment,
how made.
9 & 10 Vict.
c. 95 (*q*), s.
82 (*r*).

Acceptance of
amount paid
in as satis-
faction of
claim.
9 & 10 Vict.
c. 96,
s. 82 (*r*).

Where
amount ad-
mitted in-
cludes amount
of a set-off.

Payment in

an action of
libel.

the County Courts Act, 1867 (*s*), pays money into court under sect. 2 of 6 & 7 Vict. c. 96 (*t*), the last two rules shall apply to and be observed with reference to such payment into court, so far as they are applicable.

In certain
cases money
paid in to be
retained.

8. Where defendant pays money into court in part payment of the amount claimed, or in order that he may plead the defence of tender, and the plaintiff does not accept the sum paid in satisfaction of the action, the money shall not be paid out until after the judgment, and then if any costs shall have been awarded to the defendant, such costs shall be deducted therefrom and be paid to the defendant.

ORDER XIII.

DISCOVERY, INSPECTION, AND ADMISSION.

Production of
documents.

1. Where in any action any party desires the production of any document or documents relating to the matter in question in such action, he shall make an affidavit that he has reason to believe that such document or documents is or are in the possession or power of one of the parties, and the registrar shall, upon the delivery to him of the affidavit and a copy thereof, file the affidavit, and make an order (annexing thereto the copy of the affidavit), that the party against whom such application is made shall answer on affidavit stating what documents he has in his possession or power relating to the matters in dispute, or what he knows as to the custody they or any of them are in, and whether he objects, and if so, on what grounds, to the production of such of the documents as are in his possession or power; and the time within which the opposite party shall return such affidavit to the court shall be stated in the order, which order shall be served by the bailiff of the court or a solicitor, or by post.

Answer to
order to pro-
duce.

2. The party against whom such order is made shall answer on affidavit according to the terms of the order, and send the affidavit and a copy thereof to the registrar, by post or otherwise, within the time stated in the order; and the registrar shall, immediately upon receiving such affidavit, file the same and transmit by post or otherwise to the party making the application, the copy of the affidavit.

Further order
after answer
received.

3. Where after such last-mentioned affidavit is filed, the party making the application requires a further order thereon, he shall apply to the registrar for such further order, and if there be no matter of fact or law in dispute between the parties, the registrar shall make an order in writing, in accordance with the facts; but if there shall be any matter of fact or law in dispute between the parties, the registrar shall transmit both affidavits to the judge, who shall direct the registrar to give notice, by post or otherwise, to both parties of a time and place when and where he will hear the application, and make such order thereon as shall be just.

Order shall
state time,
&c. of produc-
tion.

4. An order for the production of any deed or document shall state the time when and the person to whom the same shall be produced, and it may further order that the same may be deposited with the registrar to be produced at any trial or hearing, or that the registrar may make a copy thereof for any party.

(*s*) See Vol. I. p. 448.

(*t*) See Vol. I. p. 452, note (*a*).

5. Where in any action any party is desirous of inspecting any written or printed document or instrument which he is entitled to inspect, relating to the matter in question in such action, and which shall be in the possession or power or under the control of the other party, such first-mentioned party may, five clear days before the day of hearing, give notice to the other party, by post or otherwise, that he or his solicitor desires to inspect any such document or instrument, describing the same, at any place to be appointed by the other party; and if such other party shall neglect or refuse to appoint such place, or to allow such plaintiff or defendant or his solicitor to inspect such document or instrument within three clear days after receiving such notice, the judge may, in his discretion, on the day of trial, adjourn the action and make such order as to costs as he shall think fit.

Inspection of documents.

6. Where a party desires to interrogate any party he shall apply to the registrar for leave to deliver interrogatories, and upon making such application he shall file an affidavit, made by himself only or by himself and his solicitor or agent, if any, or by leave of the registrar by his solicitor or agent only, stating that the deponent believes that the party proposing to interrogate will derive material benefit in the action from the discovery which he seeks, and that there is a good cause of action or defence upon the merits. And upon such application the registrar shall make an order according to the form in the schedule that the applicant may, within a time to be named in such order, deliver to the party to be interrogated interrogatories in writing upon any matter as to which the applicant seeks discovery, and shall in such order require the party interrogated to answer the questions in writing by affidavit, and file such answers within such time to be appointed by the registrar as shall enable the party making the application to use the answers so returned as evidence at the trial.

Interrogatories.

Form

7. Where a party served with the order shall object to answer the interrogatories, he shall file an affidavit stating his grounds for objecting, and that he will be prepared to show cause to the court at the return-day against his being required to answer them, but where it is only some of the interrogatories he objects to answer, he may include in his affidavit both his replies and his objections.

Objection to interrogatories.

8. Where the party required to answer interrogatories shall successfully show cause against an order requiring him to answer them, the judge may direct the action to proceed, or to be adjourned if he thinks fit, and upon terms as to costs; but if the party objecting shall not show sufficient cause for his objection, the judge may order the interrogatories to be then and there answered *vivâ voce* in court, or may adjourn the action, and make an order for the answering of the interrogatories by such time, and for the payment of such costs, as may have been incurred through the delay, as he may think fit.

Successful objection.

9. Where a party desires to give in evidence any document, he may, not less than five clear days before the trial, give notice to any other party in the action who is competent to make admissions requiring him to inspect and admit such document; and if such other party shall not within three days after receiving such notice make such admission, any expense of proving the same at the trial shall be paid by him, whatever be the result of the action, unless the court shall otherwise order; and no costs of proving any document shall be allowed unless such notice, shall be given, except in cases where, in the opinion of the registrar the omission to give such notice has been a saving of expense.

Admission of documents.

ORDER XIV.

EVIDENCE.

Witnesses.

Form .

Time of service.

Evidence may be taken *vivâ voce*.

Where the documents are not produced, order for production may be made.

Documents produced from proper custody to be read without proof unless objected to.

Where it is desired to use an affidavit, notice may be given.

Registrar to transcribe answers in examination under rules. 17 & 18 Vict. c. 125, s. 53.

Examination

1. Summonses to witnesses may be issued without leave of the court, to be served either in the home or in any foreign district, and may, by leave of the judge or registrar, be issued in blank and served by the party applying for the same or his solicitor, or by some person in the permanent and exclusive employment of the party or his solicitor, but only one name shall be inserted in such summons.

2. It shall be sufficient if a summons to a witness be served a reasonable time before the return-day.

3. Except where otherwise provided by these rules, the evidence of witnesses shall be taken *vivâ voce* on oath according to the former practice on the trial of plaints. Where by these rules evidence is required or permitted to be taken by affidavit such evidence may be taken *vivâ voce* on oath if the judge or registrar shall at the hearing of any application or otherwise so direct.

4. Where a witness served with a summons shall not at the trial produce the documents required, the court may, upon admission or proof of the service of such summons within a reasonable time, and that such documents are in the possession or power or under the control of the party so served, and that they relate to the matter then pending before the court, make an order for their production by him, and the court may deal with them, when so produced, and with all costs occasioned by their non-production, as may appear just: provided that nothing herein shall prevent the court from receiving secondary evidence where admissible of any document the production of which has been required as above.

5. Where any documents are produced to the court from proper custody, they shall be read without further proof, if they appear genuine, and if no objection be taken thereto; and if the admission of any document so produced be objected to, the judge may adjourn the hearing for the proof of the documents, and the party objecting shall pay the costs caused by such objection, in case the documents shall afterwards be proved, unless the judge shall otherwise order.

6. Where a party desires to use at the trial an affidavit by any particular witness, or an affidavit as to particular facts, he may, five clear days before the hearing, give a notice, with a copy of such affidavit annexed, to the party against whom such affidavit is to be used; and unless such last-mentioned party shall within two clear days give notice to the other party that he objects to the use of such affidavit, he shall be taken to have consented to the use thereof, unless the judge shall otherwise order.

7. In executing any order made under these rules or under section 53 of "The Common Law Procedure Act, 1854" (a), the registrar or his clerk in his presence shall transcribe the answers given by the witnesses examined before him, and the registrar shall read over the answers so transcribed, and the witness shall sign his name at the foot thereof, and the registrar shall thereupon file the same as the deposition of such witness.

8. Upon the application of a party desirous to examine a witness

(a) See this section, Vol. I. p. 251.

residing out of the jurisdiction of the court, the judge may, if he thinks fit, appoint the registrar of the court within the district of which such witness resides to take the examination of such witness, who shall take the same in the manner provided by the last preceding rule, and transmit it by post to the registrar of the court in which the action is pending.

of witness out
of jurisdiction
of court.

9. Where it shall be necessary to examine a witness *de bene esse*, application upon affidavit shall be made to the judge or registrar to appoint an examiner for that purpose.

Examination
of a witness
de bene esse.

10. Affidavits and depositions shall be read as the evidence of the person by whom they are used.

Affidavits,
evidence of
person using
them.

ORDER XV.

CHANGE OF PARTIES.

1. Where there shall be any assignment, creation, or devolution of the estate or title of any plaintiff before judgment, the person to or upon whom such estate or title has come or devolved may give notice thereof to the registrar according to the form in the schedule, with his name and address, together with an affidavit of the truth of the fact stated in such notice. And thereupon the registrar shall cause a copy of such notice to be served by post upon the defendant in the action, and a further notice that unless upon a day to be named therein he appears and shows cause against the same, the person to or upon whom such estate or title has come or devolved will be substituted for, or made a joint plaintiff with, the plaintiff named in the original summons.

Notice to be
given to de-
fendant of
change of
plaintiff's
title.

Form .

2. Where there shall be any assignment, creation, or devolution of the estate or title of any defendant, the plaintiff or the defendant may in like manner give notice to the registrar, who shall take proceedings thereon as prescribed by the last preceding rule, and a defendant may be substituted or added, as the case may be, in manner provided in such rule for the substitution or addition of a plaintiff.

Notice to
plaintiff of
change in de-
fendant's
title.

3. Where a plaintiff or a defendant is substituted or added under either of the two preceding rules, the minute book shall be altered, and all subsequent proceedings carried on under the altered title.

Alteration of
records on
change of
parties.

4. Where a sole plaintiff or defendant or one or more of *several* plaintiffs or defendants shall die *before* judgment, the action shall not abate if the cause of action survive or continue.

Abatement.

5. Execution on any judgment may issue on behalf of any person not a party to the action by leave of the registrar, upon proof of title to the benefit of the judgment, and upon substitution of the name of the new plaintiff, together with a statement of his derivative title for that of the original plaintiff, and the registrar shall give notice according to the form in the schedule of such substitution to the defendant by post, and execution shall not issue upon the judgment until the expiration of six clear days after the posting of the notice.

How execu-
tion may be
issued by per-
son not a
party.

6. When one or more of *several* plaintiffs or defendants shall die *after* judgment, proceedings thereon may be taken by the survivors or survivor, or against the survivors or survivor, without leave of the court.

Death of
party after
judgment.

7. Execution or other process on a judgment shall not issue against any person not a party to the action or matter, except a plaint upon the judgment be entered in the nature of a scire facias, the proceedings in which shall be the same as in ordinary cases.

How execu-
tion against
a person not
a party may
be obtained.

Representatives of deceased judgment-debtor may be sued.

8. Where a judgment has been given against a person deceased, his executors or administrators may be sued upon the judgment in the manner provided by the last preceding rule.

ORDER XVI.

TRIAL.

Notice of demand of a jury.

1. Notice of demand of a jury shall be made in writing to the registrar of the court three clear days before the day of trial, and the summonses to the intended jurors shall be delivered to the bailiff forthwith.

Adjournment in order to try by jury.

2. Where notice of a demand of a jury has not been given in due time, or if at the trial both parties desire to try by a jury, the judge may, on such terms as he shall think fit, adjourn the action in order that the necessary steps for such trial may be taken, and the trial shall take place accordingly.

Certain additional actions and cases may be tried by jury.

3. Actions for the recovery of land or tenements, or for any damages in respect of, or to enforce any right relating to land, or of interpleader and of replevin, and proceedings in the nature of scire facias, may, at the instance of either party, be tried by a jury.

Number of jurymen.

4. The number of jurymen summoned to attend at a court for the trial of actions shall be ten, unless the judge shall otherwise order.

Where plaintiff does not appear.

5. If at the return-day the plaintiff does not appear, and the defendant does appear, and does not admit the plaintiff's claim, the court may, in its discretion, award to the defendant costs in the same manner, and to the same amount, as to counsel, solicitor, witnesses, and other matters, as if the action had been tried, but no hearing fee shall be charged.

Where neither plaintiff nor defendant appear in cases under sect. 1 of 38 & 39 Vict. c. 50 (x), and 18 & 19 Vict. c. 67 (y).

6. Where a default summons has been issued and notice of defence has been given, and neither the plaintiff nor defendant appear at the return-day, the action shall be struck out; and where notice of defence has been given, and the defendant appears and the plaintiff does not appear, the action shall be struck out and costs ordered against the plaintiff, and where the plaintiff appears and the defendant does not, judgment may be entered for the plaintiff without further proof.

Solicitors to sign a roll.

7. No solicitor shall be allowed to appear for any person in a county court, until he has signed a roll or book to be kept by the registrar for that purpose, but no fee shall be payable for that purpose, and he shall, once in every year, if required by the registrar, produce his certificate for the year to the registrar, who shall note the fact on the roll.

No notice of employment of counsel or solicitor required.

8. It shall not be necessary for either party to give notice to the other, or to the court, of his intention to employ a barrister or solicitor to act as his advocate at the trial, and the allowance of costs for such barrister or solicitor shall not be affected by such want of notice.

Appointment of guardian ad litem to infant defendant.

9. Where an infant defendant appears at the return-day, and names a person willing to act as his guardian, and who then assents so to act, such person shall be appointed guardian accordingly; but if the defendant do not name a guardian, the judge may appoint any person in court willing to become guardian, or in default of such person the judge shall appoint the registrar of the court to be guardian, and the action shall proceed thereupon as if another person had been appointed guardian, and the name of the guardian appointed shall be entered according to the form in the schedule, but no responsibility shall attach to the person so appointed guardian at the instance of the court.

(x) See *ante*, pp. 3, 4.

(y) See Vol. I. pp. 189, 190.

10. Where at the return-day it shall appear that an action for the same cause at the suit of the same plaintiff is pending in any other court of record, the court shall order the plaint to be struck out unless the plaintiff shall undertake to discontinue the action in such other court, before a day to be named, to which the trial shall be adjourned, and unless before such adjourned trial such action shall have been discontinued, the plaint shall then be struck out.

Action pending in another court for same cause.

11. At the return-day the court may try the whole matter of the action and give judgment thereon, or grant any relief, redress, or remedy, or may make any order, or give any direction it may consider necessary to enable it to give a final judgment upon a day to which the trial may be adjourned, and may also make such order as to costs as it may think fit.

General jurisdiction of court on trial of action.

12. Where at the return-day it shall appear to the court that there are claims, estates, titles, or rights, or any equitable duties or liabilities, upon which he cannot adjudicate by reason of all the proper parties not being before the court, he may order such parties to be made plaintiffs or defendants, upon such terms as to adjournment, notices, and costs as he shall think fit.

Absent parties may be added on hearing.

15 & 16 Vict. c. 86, s. 42 (z).

13. Where a counter or other claim has been made, or any incidental claim arises at the trial, and the judge thinks that such claim can be better disposed of by an independent action, he may order that such be excluded, whether any application is made to him or not.

Counter or other claim may be tried by an independent action.

14. If a person not originally a party to the action who has been served with a notice of counter or other claim does not appear at the trial, the judge may proceed with the trial, and give such judgment or make such order against the person so served and not appearing, or the judge may postpone the trial and give such directions and make such order as to costs as he shall think fit.

When a person brought in does not appear at trial.

15. Where two or more defendants are joined and judgment is given separately against each with costs, unless the judge shall otherwise order, the costs shall be apportioned according to the respective amounts of each judgment.

Separate judgments against defendants where more than one.

16. Where in any action a set-off or counter-claim is established as a defence against the plaintiff's claim, the court may, if the balance is in favour of the defendant, give judgment for the defendant for such balance, or may otherwise adjudge to the defendant such relief as he may be entitled to upon the merits of the case.

Judgment may be given for balance found due to defendant.

17. Any judgment of nonsuit, unless the judge otherwise directs, shall have the same effect as a judgment upon the merits for the defendant; but in any case of mistake, surprise, or accident, any judgment of nonsuit may be set aside on such terms, as to payment of costs and otherwise, as to the judge shall seem just.

Effect of nonsuit.

18. Where any of the parties to an action are officers of the court, the judge if he thinks fit may direct the trial to take place at some convenient court of which he is not the judge.

Action against officer of court.

ORDER XVII.

AMENDMENT.

1. Where an action has been commenced in the name of the wrong person as plaintiff, or where it is doubtful whether it has been com-

Change of plaintiff.

(z) See this section, note to Order V. r. 11, *ante*, p. 91.

menced in the name of the right plaintiff or plaintiffs, the court, if satisfied that it has been so commenced through a *bonâ fide* mistake, and that it is necessary for the determination of the real matter in dispute so to do, may, if the person or persons to be substituted or added consent thereto, order such other person or persons to be substituted or added upon such terms, as to notice and otherwise, as may seem just.

Where to
persons made
plaintiffs.

2. Where it appears at the trial that a *less* number of persons have been made *plaintiffs* than by law required, the name of the omitted person may, at the instance of either party, be added, by order of the court, on such terms as it shall think fit, and thereupon the action shall proceed, as to all matters, as if the proper persons had been originally made parties; and if such person shall, either at the trial or at some adjournment thereof, personally or by writing, signed by him or his solicitor, consent to become a plaintiff in manner aforesaid, the court shall then pronounce judgment as if such person had originally been made a plaintiff; but if such person shall not consent to become a plaintiff in manner aforesaid, either at the trial or at the adjournment thereof, judgment of nonsuit shall be entered, but such judgment of nonsuit shall not have the same effect as a judgment upon the merits for the defendant.

Change of de-
fendant.

3. Where a person other than the defendant appears at the trial, and admits that he is the person whom the plaintiff intended to charge, or ought to have charged, his name may be substituted for that of the defendant, if the plaintiff consents, and thereupon the action shall proceed, as to all matters, as if such person had been originally named in the summons, and the costs of the person originally named as the defendant shall be in the discretion of the court.

Where party
wrongly sued
in a represen-
tative cha-
racter.

4. Where a party sues or is sued in a representative character, but it appears that he ought to have sued or been sued in his own right, the court may, at the instance of either party, on such terms as it shall think fit, amend the proceedings accordingly, and thereupon the action shall proceed, as to all matters, as if the proper description of the party had been given in the summons.

Where party
ought to have
been sued in
a representa-
tive cha-
racter.

5. Where a party sues or is sued in his own right, but it appears that he ought to have sued or been sued in a representative character, the court may, at the instance of either party, on such terms as it shall think fit, amend the proceedings accordingly, and thereupon the action shall proceed, as to all matters, as if the proper description of the party had been given in the summons.

Amendment
of name or
description of
plaintiff.

6. Where the name or description of a *plaintiff* in the summons is insufficient or incorrect, it may be amended at the instance of either party by order of the court, on such terms as it shall think fit, and thereupon the action shall proceed, as to all matters, as if the name or description had been originally such as it appears after the amendment has been made.

Amendment
of name or
description
of defendant.

7. Where the name or description of a *defendant* in the summons is insufficient or incorrect, it may be amended at the instance of either party by order of the court, on such terms as it shall think fit, and thereupon the action shall proceed, as to all matters, as if the name or description had been originally such as it appears after the amendment has been made; but if no objection is taken to the name or description the action may proceed, and in the judgment, and all subsequent proceedings founded thereon, the defendant may be named and described in the same manner.

8. In actions by or against a husband, if a wife or husband be improperly joined or omitted, or if one of them be improperly substituted for the other, the summons may at the trial be amended at the instance of either party by order of the court, on such terms as it shall think fit, and thereupon the action shall proceed, as to set-off and other matters, as if the proper person had been made party to the action.

Improper joinder or omission of husband or wife in action against a husband.

9. Where it appears that a *greater* number of persons have been made *plaintiffs* than by law required, the name of the person improperly joined may, at the instance of either party, be struck out by order of the court, on such terms as it shall think fit, and thereupon the action shall proceed, as to all matters, as if the proper party or parties had alone been made plaintiffs.

Where too many persons made plaintiffs.

10. Where it appears at the trial that a *greater* number of persons have been made *defendants* than by law required, the name of the person improperly joined may, at the instance of either party, be struck out by order of the court, on such terms as it shall think fit, and thereupon the action shall proceed, as to all matters, as if the proper party or parties had alone been made defendants, and the cost of the person improperly joined as a defendant shall be in the discretion of the judge.

Where too many persons made defendants.

11. Where two or more persons are made defendants and some of them have not been served, the name or names of the defendant or defendants who have not been served, may, at the instance of either party, be struck out by order of the court, on such terms as it shall think fit; and thereupon the action shall proceed, as to all matters, as if the party or parties whose name or names have not been struck out, had alone been made defendant or defendants, or it may be adjourned for service of any defendant not served.

Where all defendants have not been served.

12. No action shall be defeated by reason of the mis-joinder of parties, and the court may in every action deal with the matter in controversy so far as regards the rights and interests of the parties actually before it. The court may, at any stage of the proceedings, either upon or without the application of either party, and on such terms as may appear to the court to be just, order that the name or names of any party or parties, whether as plaintiffs or as defendants, improperly joined be struck out, and that the name or names of any party or parties, whether plaintiffs or defendants, who ought to have been joined, or whose presence before the court may be necessary in order to enable the court effectually and completely to adjudicate upon and settle all the questions involved in the action, be added. No person shall be added as a plaintiff without his consent thereto. All parties whose names are so added as defendants shall be served with a notice in manner hereinafter mentioned, and the proceedings as against them shall be deemed to have begun only on the service of such notice.

Action not to be defeated by misjoinder of parties.

13. Any application to add or strike out or substitute a plaintiff or defendant may be made to the court at the trial of the action or to the judge under section four of "The County Courts Act, 1875" (a).

Application to add or strike out parties.

ORDER XVIII.

JUDGMENTS AND ORDERS.

1. All orders of adjournment or for the payment of costs, and all judgments for the payment of any debt or damages or costs, shall be

Entry of judgments.

(a) See *ante*, p. 6.

entered by the registrar in the minute book ; but all special judgments or orders in the nature of decrees shall be settled by the registrar, and shall be sealed with the seal of the court and filed of record, and a minute of such filing with the date thereof shall be entered in the minute book.

Orders for payment of money or adjournments may be served by post.

2. Orders for payment of money or costs, or both, and orders of adjournment, when directed to be served, shall in all cases be prepared by the registrar of the home court, and delivered to the bailiff, who shall, within twenty-four hours send them, by post or otherwise, to the parties on whom they are respectively directed to be served: provided always, that it shall not be necessary for the party in whose favour any order has been made to prove, previously to his taking proceedings thereon, that it was posted or reached the opposite party.

No order of judgment by default.

3. Where judgment is entered up against a party served with a default summons no order need be drawn up or served.

Purposes for which certificate of a judgment required, to be stated.

4. Any person requiring a certificate of any judgment or order shall state in writing whether such certificate is required for the purpose of removing the proceeding to any other court, or for the purpose of evidence only ; and in such latter case the registrar shall state thereon the purpose for which it is required.

Certain orders need not be drawn up.

5. Where the court gives leave to take any proceeding, it shall not be necessary to draw up any order, nor shall any order be drawn up to warrant such proceeding.

Form of order for payment.

6. Unless an order is made for payment forthwith, it shall be payable fourteen days from the date of the order unless the court otherwise directs, and where it is for the payment of any sum of money by instalments, such instalments shall be payable at such periods as the court shall order ; and if no period be mentioned, the first shall become due on the twenty-eighth day from the day of making the order, and every successive instalment shall become due at a like period of twenty-eight days from the day of the previous instalments becoming due ; and such instalments shall be paid into court in accordance with sect. 45 of "The County Courts Act, 1856" (b).

19 & 20 Vict. c. 108, s. 45.

Notice of payments into court. Form .

7. When an order is made for payment by instalments or otherwise, the registrar shall give notice to the plaintiff by post, according to the form in the schedule, of every payment made: provided that such notice shall not be given where the payment does not exceed ten shillings.

Judgments under sect. 11 of 30 & 31 Vict. c. 142.

8. Where in an action brought under sect. 11 of "The County Courts Act, 1867" (c), to recover land, or damages in respect of any right relating to land, the title of the plaintiff shall appear to have existed, as alleged in the summons, at the time of the entry of the plaint, but to have expired before the return-day, the plaintiff shall be entitled to judgment according to the fact that he was so entitled and for his costs of suit, unless the court shall otherwise order.

Execution on judgments under 30 & 31 Vict. c. 142, s. 11.

9. Where in an action brought under sect. 11 of "The County Courts Act, 1867" (c), to recover land, judgment is given for the plaintiff, execution may issue upon a day to be named in the judgment, and if no day be named, then it may issue after the expiration of fourteen clear days from the day on which judgment shall have been given.

Separate warrants for possession and

10. Where in an action brought under sect. 11 of "The County Courts Act, 1867" (c), to recover land, judgment has been obtained for

(b) See Vol. I. p. 285.

(c) See Vol. I. p. 35.

the recovery of possession and costs, there may be either one warrant or separate warrants of execution for the recovery of possession, and for the costs at the election of the plaintiff.

11. Where in an action brought under sect. 11 of "The County Courts Act, 1867" (*d*), to recover land, judgment is given for the defendant or any of them with costs, executions may issue for the costs against the plaintiffs upon a day to be named in the judgment, and if no day be named then it may issue after the expiration of fourteen clear days from the day on which judgment shall have been given.

costs in judgments under 30 & 31 Vict. c. 142, s. 11.

Executions for costs against plaintiff in action under 30 & 31 Vict. c. 142, s. 11.

12. Where in any action the right or title to any easement shall come in question, and the right or title to such easement shall be proved to the satisfaction of the judge, the judge may, in addition to giving judgment for the successful party for his damages and costs, or for costs, as the case may be, make an order in the nature of an injunction requiring the party interrupting or obstructing the user of such easement to permit the other party to use and enjoy such easement free from interruption.

Injunction in action involving title to easement.

13. Where an order directs any deed to be prepared and executed, it shall state by what party the said deed shall be prepared, and to whom it shall be submitted for approval, and if the parties cannot agree upon the form thereof, the judge may, upon the application of either party, settle the same himself, or name a conveyancing counsel by whom the same shall be settled, subject to the final approval of the judge.

Where order directs a deed to be prepared.

14. Where real property is ordered to be sold, the order shall direct who shall have the conduct of the sale, and by whom the conditions and contracts of sale, and the abstract of title, shall be prepared. And where any conditions or contracts are ordered to be settled by a conveyancing counsel, it shall name the counsel to whom they are to be submitted.

Sale of real property.

15. Where an order directs any personal property to be sold, the same shall be sold, under the superintendence of the high bailiff, by public auction, unless the court shall otherwise direct.

Sale of personal property.

16. Where an order directs that any account be taken or inquiry made, such account shall be taken and inquiry made by the registrar, and he shall for that purpose have all the powers which a chief clerk of the master of the rolls, or a vice-chancellor of the Court of Chancery had prior to 1st November, 1875, and all parties shall have the same power of summoning witnesses, including as witnesses any parties in the action, and of examining them on such accounts or inquiries, and of compelling the production of documents, as they would have upon the trial of an action; and all rules as to the summoning, swearing and examining of witnesses, and the production of documents at the trial, shall be applicable (as far as may be) to such summoning, swearing, examining and production on taking any such accounts, or prosecuting any such inquiries.

Accounts, how to be taken.

17. Where the registrar is ordered to make inquiries or to take accounts, he shall by summons, according to the form in the schedule, and returnable not less than seven days from the date of the order, addressed to all parties entitled to attend, direct such parties to attend at his office or at the court, for the purpose of proceeding with such inquiries or accounts. In all cases in which advertisements are ordered

Registrar to appoint time and place for inquiries and taking accounts.

Form

the return-day shall not be less than twenty-one days, and the registrar shall forthwith prepare and insert advertisements in conformity with such order, stating the time, place and purpose of such sitting, and shall insert the same fourteen days previous to such sitting.

Hearing before registrar.

18. Upon the day so appointed, or at any adjourned sitting, the registrar shall sit at the time and place appointed, and shall hear all parties interested, their counsel or solicitors.

Books of accounts to be taken as *prima facie* evidence of truth of matters therein.

19. Where an order directs accounts to be taken, any books of account in which the accounts required to be taken, or any of them, have been kept, shall, unless the judge shall otherwise direct, be taken as *prima facie* evidence of the truth of the matters therein contained, with liberty to the parties interested to take such objections thereto as they may be advised.

Advertisements for creditors in administration.

20. Every advertisement for creditors or other persons having any claim upon or interest in the distribution of any assets to be administered by the court, which shall be issued pursuant to any order, shall direct every such creditor or other person, by a time to be thereby limited, to send to the registrar his name and address, and the full particulars of his claim or interest, and a statement of his account, and the nature of the security (if any) held by him, and at the time of directing such advertisement a time shall be fixed for adjudicating on the claims.

Creditors need not prove unless required.

21. No such creditor or other person need make any affidavit, or attend in support of his claim, unless he is served with a notice requiring him to do so, as herein-after provided.

Creditors holding security to produce same.

22. Every creditor shall produce or transmit to the registrar any security held by him, at such time as shall be specified in the advertisement for that purpose, being the time appointed for adjudicating on the claims; and every creditor shall, if required, by notice in writing to be given by the registrar, produce or transmit to the registrar all other deeds and documents necessary to substantiate his claim before the registrar at his office at such time as shall be specified in such notice.

Pedigree if required, to be produced.

23. Every person claiming as heir-at-law, devisee, next of kin, or legatee shall, if required, by notice in writing to be given by the registrar, produce or transmit to the registrar any pedigree or proof mentioned in such notice within such time as shall be therein specified.

Creditor refusing to have no costs.

24. In case any creditor or other person shall neglect or refuse to comply with the two last preceding rules, he shall not be allowed any costs of proving his claim, unless the registrar shall otherwise direct.

Allowance of debts or claims.

25. At the time appointed for adjudication upon the debts or claims, the registrar shall take the evidence of the executor, administrator, or other accounting party upon such debts or claims, and may thereupon, in his discretion, allow any of such debts or claims without further proof, and may direct such investigation of all or any of the debts or claims not allowed, and require such further particulars, information, or evidence relating thereto as he may think fit, and may, if he so think fit, require any creditor or other person to attend and prove his claim, or any part thereof; and the adjudication on such claims as are not then allowed shall be adjourned to a time to be then fixed.

Notice of allowance or non-allowance of claim.

26. Notice of allowance shall be given by the registrar to every creditor or other person whose claim, or any part thereof, has been allowed, and notice shall also be given by him to every such creditor or other person whose claim or any part thereof has not been allowed to attend and prove his claim or such part thereof as is not allowed, by a time to be named in such notice, not being less than seven days after

such notice, and to attend at a time to be therein named, being the time to which the adjudication thereon shall have been adjourned; and in case any creditor or other person shall not comply with such notice, his claim, or such part thereof as aforesaid, shall be disallowed.

27. Any such creditor or other person who has not before sent in the particulars of his claim pursuant to the advertisement, may do so two days previous to any day to which the adjudication is adjourned.

Claim may be sent in before adjudication.

28. If any claim be sent in after the time fixed by the advertisement (except as before provided in case of an adjournment), the registrar may, upon special application, entertain the same, upon such terms and conditions as to costs and otherwise as he thinks fit.

Where claim sent in after time fixed.

29. In taking any account, all just allowances shall be made without any directions for that purpose in the order to take such account.

Just allowances.

30. Where a registrar has been ordered to certify to the court upon any matter, he shall present to the court a certificate in writing signed by him.

Registrar's certificate.

31. The registrar shall prepare his certificate seven days before the day appointed for presenting the same, and shall give notice by post to all parties to the action that the same lies in his office for the inspection of any parties interested therein or affected thereby; and he shall deliver a copy thereof to any person requiring the same, upon payment of the costs of such copy.

Registrar's certificate to lie in office.

32. Where any party interested in, or affected by, the registrar's certificate desires to have the same varied, he shall apply by himself, his counsel or solicitor, at the court on the day appointed for presenting the same, and the judge shall thereupon hear and determine such application, and shall confirm or vary the certificate, and make such further order thereupon as he may think fit.

Variation of registrar's certificate.

33. If no application shall be made to vary the certificate, it shall be taken as confirmed, unless the judge shall otherwise order.

Confirmation of certificate.

34. Where the registrar, high bailiff, receiver, or any party has by any order been directed to do any act, for doing which it may be found necessary to have further directions or an order of the court, the registrar shall apply to the judge for such direction or order, and upon such application the judge may give such direction or make such order as he may think fit, or may appoint a time to hear all parties upon the application so made by the registrar; and if the judge shall make such appointment for hearing, the same shall operate as a stay of proceedings in the action until the day so appointed, if he shall so direct.

Application to judge for further directions.

35. Where any matter is referred to the registrar by an order, he shall, as soon as conveniently may be, ascertain if there are any parties who, if the order had been made in a suit pending in the Chancery Division of the High Court of Justice, ought, under the 42nd section of the 15 & 16 Vict. c. 86, to be served with a notice under rule 8 of such section (e).

Absent parties.

36. Where it shall be necessary to serve any parties with the notice mentioned in the last preceding rule, the same shall be prepared by the registrar, and issued by him to the bailiff who shall serve the same, and upon such notice the party served therewith may attend the proceedings under the order.

Notices to absent parties.

37. Any party who shall be served with a notice under the last preceding rule, may apply to the court at the next sitting, or by leave of

Absent parties may apply for

(e) See this section, note to Order V. r. 11, *ante*, p. 91.

variation of order.

the judge at any subsequent sitting, to cancel, vary, or add to the order.

Order upon any question between defendant and other person not being plaintiff.

38. Where a defendant desires to have the judgment or order of the court upon any question between himself and any person other than the plaintiff, he shall ten days before the return-day give notice in writing to the person against whom, or as to whom he desires such judgment or order, that he will at the time of the trial apply to the court for such judgment or order, and shall set forth in such notice the substance of the judgment or order for which he so intends to apply.

ORDER XIX.

ENFORCEMENT OF JUDGMENTS AND ORDERS.

Enforcement of order for payment of money.

1. Every order for the payment of money may be enforced in the same manner as a judgment for debt or damages is enforced under sect. 94 of "The County Courts Act, 1846" (f).

Warrants of Execution against the Goods.

Date of warrants of execution.

2. Warrants of execution against the goods shall bear date on the day on which they are issued, and shall continue in force for twelve calendar months from such date and no longer.

Where default made, execution may issue.

3. Where a defendant has made default in payment of the whole amount awarded by the judgment, or where the judgment was for payment by instalments of an instalment thereof, a warrant of execution, without leave of the court, may issue against his goods; and such execution shall be for the whole amount of the judgment and costs then remaining unsatisfied, unless in the the case of instalments the judge shall otherwise specially direct in each case.

Indorsement on warrant.

4. The registrar shall, on issuing a warrant of execution against the goods, indorse on such warrant the amount to be levied, distinguishing the amount adjudged to be paid, and the amount of the fee for issuing the warrant; and shall prepare and deliver to the bailiff with the warrant a notice according to the form in the schedule annexed; and the bailiff, upon levying, shall deliver such notice to the party against whom the execution has issued, or leave the same at the place where the execution is levied.

Concurrent warrants.

5. Warrants of execution against the goods may be issued concurrently into one or more districts, provided that the costs of more than one warrant shall not be allowed against the execution debtor unless by order of the court.

Judgment-Summons.

Judgment-summons to be served personally.

6. No order of commitment under "The Debtors Act, 1869," (g) shall be made unless a summons to appear and be examined on oath, hereinafter called a judgment-summons, shall have been personally served upon the judgment-debtor.

Where judgment-summons may issue.

7. A judgment-summons shall not be issued by a court unless the debtor resides or carries on business or is employed within its district, or unless leave of the judge under section 48 of "The County Courts Act, 1856" (h), has been given, and a minute thereof entered,

19 & 20 Vict. c. 108, s. 48.

(f) See Vol. I. p. 80.
(g) See Vol. I. p. 352.

(h) See Vol. I. p. 357.

after hearing in open court the grounds on which the leave is asked; but the districts of the courts referred to in section 3 of "The County Courts Act, 1867," (i) shall be deemed to be one district, so far as relates to the issuing of judgment-summonses by the court in which action was brought.

8. Where a judgment-creditor desires to apply for a judgment-summons to a county court other than the county court in which the order or judgment was obtained, he shall obtain from the registrar of the county court in which the order or judgment was obtained, a certified copy of the order or judgment in the action, according to the form in the schedule, and file the same with his application.

Where judgment-summons applied for in court in which judgment was not obtained.
Form .

9. Where a party desires to enforce by commitment in any county court a judgment of any competent court, he shall obtain from such court an office copy of the judgment he desires so to enforce, and shall file such office copy, together with an affidavit of the sum then due thereon, with the registrar of the court of the district in which the party, against whom the same is to be enforced, resides or carries on business, who shall thereupon issue a judgment-summons.

Where judgment-summons required on a judgment of a court other than a county court.

10. Every judgment-summons shall be according to the form in the schedule, and be issued not less than ten clear days, and be served not less than five clear days, before the day on which the judgment-debtor is required to appear, except in the case provided for by the next following rule.

Form of judgment-summons.

11. Where the person applying for the judgment-summons shall state to the registrar that the judgment-debtor is about to remove from his dwelling or place of business, or is keeping out of the way to avoid service, then the judgment-summons may be issued and served at any time before the hearing: provided that the court shall not act upon a summons issued under this rule, unless at the hearing the judge is satisfied, by evidence on oath, that at the time of the application for the judgment-summons such party was about to remove from his dwelling or place of business, or was keeping out of the way to avoid service, in either of which cases service upon the party at any time before the time appointed for the appearance of such party shall be sufficient.

Where judgment-debtor about to remove.

12. A judgment-summons may issue without leave of the court, except in cases provided for either by section 48 of "The County Courts Act, 1856" (k), or by the last rule, or where the judgment is more than six years old.

Judgment-summons may issue without leave of court, except in certain cases.
Successive judgment-summons.

13. Where a judgment-summons has not been served within due time by a bailiff, a successive summons may be issued without fee, and may be served by any person the judge or registrar may direct; but if such successive summons is not served in due time, no further successive summons shall be allowed, but a fresh summons may be issued on payment of the fee.

14. The hearing of a judgment-summons may be adjourned from time to time.

Adjournment.

15. Any witness may be summoned to prove the means of the judgment-debtor, in the same manner as witnesses are summoned to give evidence upon the hearing of a plaint; and the expenses of any person examined by the court, whether summoned or not, may be allowed by the court.

Witness may be summoned.

(i) See Vol. I. pp. 147, 361.

(k) See Vol. I. p. 357.

On issue of judgment-summons, where warrant of execution has been issued it shall be returned into court

Where order of one court altered by another court, proceedings to be continued in latter.

Minute that a certificate has been given to be made.

Bankrupt not to be committed.

No commitment when adjudication takes place after order of commitment.
Form .

Discharge of bankrupt judgment-debtor.

Form of order of commitment.
Form .

Payment on arrest.

Payment in prison.

16. Upon the issue of a judgment-summons against a party upon an order or judgment of the court issuing the judgment-summons, the bailiff of such court shall return into court any warrant of execution against the goods of such party which may have been issued in the action.

17. Where a judgment-summons is heard in a court other than that in which the order or judgment was obtained, and an order is made altering the terms of the order or judgment, all payments under the new order shall be made into, and execution or other process shall be issued by, the court which has so altered the order.

18. Where a certified copy of a judgment is obtained from the registrar of a county court, he shall make on the minute of the judgment a memorandum of having given such certificate, and no warrant of execution against the goods or judgment-summons upon such judgment shall issue from such court, unless it be shown to the satisfaction of the court or registrar that no order has been made against the execution debtor in any other court.

19. Where a judgment-debtor shall upon the return-day of a judgment-summons satisfy the court that he has been adjudicated a bankrupt, and that the debt was provable in the bankruptcy, or that, in respect of the debt, resolutions have been duly registered under the 125th or 126th sections of "The Bankruptcy Act, 1869" (1), no order of commitment shall be made.

20. Where a judgment-debtor shall, after the making of an order of commitment against him, file, in the court in which the order was made, an affidavit according to the form in the schedule, stating that he has been adjudicated a bankrupt, and that the debt was provable in the bankruptcy, or that in respect of the judgment debt resolutions have been duly registered under either of the before-mentioned sections of "The Bankruptcy Act, 1869" (1), and at the same time give notice to the judgment-creditor of the filing of the affidavit, no such order shall issue, or if issued but not executed shall be recalled.

21. Where a judgment-debtor is arrested, he may file in the county court within the district of which he is in custody, an affidavit as mentioned in the last preceding rule, and give the notice to the judgment-creditor thereof, as therein required, and thereupon the judgment-debtor shall be discharged out of custody upon the certificate of the registrar of that court.

22. An order of commitment made under "The Debtors Act, 1869," shall be according to the form in the schedule, and shall, on whatever day it may be issued from the registrar's office, bear date on the day on which the order for commitment was made, and shall continue in force for one year from such date and no longer.

23. When an order of commitment for non-payment of money is issued, the defendant may, at any time before his body is delivered into the custody of the gaoler, pay to the bailiff the amount indorsed on the order as that, on the payment of which, he may be discharged; and on receiving such amount the bailiff shall discharge the defendant, and shall within twenty-four hours after receiving such amount pay over the same to the registrar of the county court of which he is an officer.

24. The sum indorsed on the order of commitment, as that upon payment of which the prisoner may be discharged, may be paid into the

(1) See these sections, Vol. II. pp. 373, 378.

court from which the commitment order was issued, or to the gaoler in whose custody the prisoner is, or into the foreign court into which it has been re-issued under sect. 104 of "The County Courts Act, 1846" (m). Where it is paid to the registrar, he shall sign and seal a certificate of such payment, and upon receiving such certificate by post or otherwise, the gaoler, in whose custody the prisoner shall then be, shall forthwith discharge such prisoner. And where it is paid to the gaoler, he shall, upon payment to him of such amount, together with costs sufficient to pay for transmitting such amount to the court under the order of which the prisoner was committed, by post-office order, sign a certificate of such payment, and discharge the prisoner, and such costs of transmission shall be part of the prescribed costs.

9 & 10 Vict.
c. 95.

25. A certificate of payment by a prisoner shall be according to the form in the schedule.

Form of cer-
tificate of
payment.
Form

26. If a judgment-debtor appears at the return-day, but the judgment-creditor fails to appear, the judge may award costs to the judgment-debtor.

Costs on
default of
appearance of
a judgment-
creditor.

27. All costs incurred by the plaintiff in endeavouring to procure or enforce an order of judgment shall be deemed to be due in pursuance of such order or judgment under section 5 of "The Debtors Act, 1869" (n), unless the judge shall otherwise order.

Costs of en-
forcing a
judgment.
32 & 33 Vict.
c. 62, s. 5.

Process other than Execution or Judgment-Summons.

28. On the application of the party entitled to the benefit of any order mentioned in the three next following rules, the registrar shall issue to the bailiff a copy of such order under the seal of the court, with a notice to the party to be bound indorsed thereon, and the bailiff shall forthwith serve the same upon the party to whom such notice is addressed, and no process shall issue to enforce any such order, unless by leave of the judge, until three days after the copy and notice shall have been served upon the party to be bound thereby, in the same manner as an ordinary summons may be served; but where the order is in the nature of an injunction, the registrar shall, if the party by whom it was obtained desires to have the same served by his solicitor, allow it to be so served.

Service of
order men-
tioned in the
three next
following
rules shall not
be enforced
until three
days after
order made.

29. Where an order has been made in any action or proceeding for the delivery up to any person of lands or tenements, goods or chattels, either as owner thereof, or to be sold, or to be held in possession until an order is made as to the disposition thereof, the registrar shall, upon the application of the person entitled to such possession, issue to the bailiff either a warrant of possession, or warrant of assistance, as the case may require.

Warrant of
possession.

30. Where any breach of an order in the nature of an injunction shall have been made, the registrar shall, upon application by the party interested in the enforcement of such order, issue to the high bailiff, or to such person for service by his solicitor, a notice under the seal of the court, requiring the person who shall have been guilty of the breach of the said order to appear at a court, to be held on a day to be named therein, to show cause why he should not be committed for contempt for having disobeyed the said order.

Breach of an
injunction.

31. Where any person acting in a fiduciary capacity is required by order to pay any sum of money in his possession or under his control,

Process of
contempt in
certain cases.

(m) See Vol. I. p. 315.

(n) See Vol. I. p. 353.

and does not pay the same, or where any person is required by any order to do an act within a certain number of days after service of the copy of the order, and such person shall not do such act within the time mentioned therein, the registrar shall, upon application by the party interested in the enforcement of the order, issue to the high bailiff, or to such person for service by his solicitor, a notice under the seal of the court, requiring the person who shall have neglected to obey the order to appear at a court, to be held on a day to be named therein, to show cause why he should not be committed for contempt in having neglected to obey such order.

Proceedings on Judgment after Six Years.

No proceedings to be taken on a judgment after six years without leave of court.

32. No warrant against the goods, or judgment-summons, shall issue on a judgment more than six years old, unless some payment has been made by the judgment-debtor into court within twelve months previously, or unless by leave of the court, but no notice to the debtor, previous to applying for such leave, shall be necessary, and such leave shall be expressed on the warrant or summons under the seal of the court.

Judgment by married woman sued as a feme sole, how enforced.

33. When a female, sued as a single woman, obtains judgments on the ground of coverture, and is awarded costs, she may enforce payment of such costs in her own name.

ORDER XX.

ACTIONS REMITTED FROM OR TRANSFERRED TO THE HIGH COURT OF JUSTICE.

Remittance of actions from High Court of Justice.

1. Where any action is remitted by order of the High Court of Justice to a county court, the plaintiff shall lodge with the registrar thereof the order and the writ, and also a statement of the names and addresses of the several parties to the action, and their solicitors, if any, and a concise statement of the particulars, such as would be required upon entering a plaint, signed by the plaintiff or his solicitor, and the registrar shall thereupon enter the action for trial and give notice to the parties of the day appointed for such trial, by post or otherwise, ten clear days before such day, and shall annex to the notice to the defendant a copy of the particulars.

Defendant may proceed as if action originally brought in county court. Order to be filed.

2. Upon being served with a notice of trial under the last preceding rule, a defendant may proceed in all things in the same way as if the action had been brought in the county court, and the notice so served upon him was an ordinary summons.

3. The registrar shall forthwith indorse on the order the date on which the same was lodged and file the same, and the action shall proceed in all things as if it were an ordinary action in the county court.

Special notice in action for libel or slander.

4. Where in any action for libel or slander remitted under sect. 10 of "The County Courts Act, 1867," (o) to be tried in a county court, the defendant intends to avail himself of the provisions of sects. 1 and 2 of 6 & 7 Vict. c. 96, (p) he shall give notice in writing of such intention, signed by himself or his solicitor, to the registrar five clear days before the day appointed for the trial of the action.

(o) See Vol. I. p. 448.

(p) See Vol. I. p. 452, note (a).

5. If during the progress of any action upon any claim or title, or to obtain any relief, remedy, or redress which might respectively before the 1st November, 1875, have been the subject of a plaint or petition in equity, it shall be made to appear that the subject matter of the plaintiff's claim exceeds the amount to which the jurisdiction of the court is limited, the judge, if requested, may forthwith make an order for the transfer of the action to the Chancery Division of the High Court of Justice, but if not so requested the order shall not be made before fifteen days at least; and the registrar shall make and file a copy of such order, and shall transmit the order, by post or otherwise, to the proper officer of the Chancery Division of the High Court of Justice, and shall also send notice, by post or otherwise, of the fact, to all parties and persons entitled to be served with a copy of the order.

Transfer of action to High Court of Justice by order during progress of action under 28 & 29 Vict. c. 99, s. 9 (q).

6. If during the progress of taking any accounts or making any inquiries in any action for any claim, right, redress, or remedy which might before the commencement of "The Supreme Court of Judicature Act, 1873," have been enforced in equity, it shall appear to the registrar that the subject matter of the action exceeds the amount to which the jurisdiction of the court is limited, he may if he thinks fit proceed with and complete the particular account or inquiry, but he shall at the next sitting of the court present a certificate of the state of the proceedings in the action, and if the judge shall be of opinion that such excess exists, he shall make an order of transfer as under the last preceding rule.

Transfer to High Court of Justice under sect. 9 of 28 & 29 Vict. c. 99 (q), where upon taking of accounts amount of jurisdiction of county court is found to be exceeded.

7. Where any order is made by the High Court or any division or judge thereof for the transfer of any proceeding from the county court to the High Court under the 90th sect. of "The Supreme Court of Judicature Act, 1873" (r), or under sect. 3 of "The County Courts Act, 1865" (s), then, subject to such order, the record in such proceeding shall be transmitted by the registrar in the following manner. The registrar shall make and certify under his hand office copies of all entries of record in the books of the court, and shall forthwith transmit by post or otherwise such copies, together with all such documents as shall have been filed in the action to the proper officer of the High Court. Such copies and the cost of transmission shall be paid for by the party on whose application the transfer has been made, and the registrar may require deposit of the costs of making such copies and transmission before making or transmitting the same.

Transfer of proceedings to High Court under sect. 90 of Judicature Act, 1873, or 28 & 29 Vict. c. 99, s. 3.

ORDER XXI.

INTERPLEADER.

1. Where any claim is made to or in respect of any goods or chattels taken in execution under the process of any county court, or in respect of the proceeds or value thereof, and summonses have been issued on the application of the bailiff, such summonses shall be served in such time and mode as hereinbefore directed for an ordinary summons to appear to a plaint, and the case shall proceed as if the claimant were the plaintiff, and the execution creditor the defendant; provided that where the claimant has not at the request of the bailiff made deposit in

Proceedings generally.

(q) See Vol. I. p. 45, and Vol. II. p. 109.

(r) See Vol. I. p. 58.

(s) See Vol. II. p. 109.

accordance with sect. 72 of "The County Courts Act, 1856" (*t*), the time of service may, if the high bailiff so desires, by leave of the judge or registrar, be such time as will obtain a speedy decision on the claim.

Claimant to lodge particulars and grounds of claim.

2. The claimant shall, five clear days before the return-day, deliver to the bailiff, or leave at the office of the registrar of the court, a particular of any goods or chattels alleged to be the property of the claimant, and the grounds of his claim, or in case of a claim for rent of the amount thereof, and for what period, and in respect of what premises, the same is claimed to be due, and the name, address, and description of the claimant shall be fully set forth in such particular, and any money paid into court under the execution shall be retained by the registrar until the claim shall have been adjudicated upon: provided that by consent of all parties, or without such consent if the judge shall so direct, an interpleader claim may be tried, although this rule has not been complied with.

Claim of damage.

3. Where the claimant to goods taken in execution claims damages from the execution creditor or from the high bailiff for or in respect of the seizure of the goods, he shall in the particulars of his claim to the goods state the amount he claims for damages, and the grounds upon which he claims damages.

Claim of damages against high bailiffs.

4. Where an execution creditor claims damages against a high bailiff arising out of the execution of any process, he shall five clear days before the return-day deliver to the high bailiff a notice of such claim, stating the grounds for, and amount of, such claim.

Payment into court of damages claimed under 30 & 31 Vict. c. 142.

5. Where a claim for damages under sect. 31 of "The County Courts Act, 1867" (*u*), is made against any high bailiff and execution creditor, or either of them, they or either of them may pay into court money in full satisfaction of such claim for damages, and such payment into court shall be made in the same manner and have the same effect, and the parties respectively shall have the same rights and remedies, as by the practice of county courts they would respectively have if the proceeding had been an action in which the claimant was plaintiff, and the high bailiff and judgment creditor defendants.

Interpleader summons.

6. Interpleader summonses shall be issued by the registrar, on the application of the bailiff, without leave of the court.

Whence issued.

7. Interpleader summonses shall be issued from the court of the district in which the levy was made, and the execution creditor and claimant shall be summoned to such court.

Costs where decision against claimant.

8. Where the claim to any goods or chattels taken in execution, or the proceeds or value thereof, shall be decided against the claimant, the costs of the bailiff allowed by the judge shall be retained by him out of the amount levied, if the judge shall not otherwise order, but without prejudice to the right of the execution creditor against the claimant for the sum so retained.

Where assignor disputes an assignment.

9. Where the defendant in an action brought by the assignee of a debt or chose in action has had notice that the assignment is disputed by the assignor, or any one claiming under him, or has had notice of any other opposing or conflicting claims to such debt or chose in action, he may, within five days of the service of the summons, apply to the registrar for a summons against the assignor or the person making such conflicting claim, and the registrar shall thereupon issue an interpleader summons according to the form in the schedule, returnable as soon as

Form

(*t*) See Vol. I. p. 374.

(*u*) See Vol. I. p. 373.

conveniently may be, and upon the return-day of such summons the court shall hear the case of the defendant and of the plaintiff in the action, and also of the assignor disputing such assignment or of the person making such opposing or conflicting claim, and shall give such judgment therein as shall finally determine the rights and claims of all parties, as if the same had been an ordinary action into which a third party had been introduced by counter-claim.

10. Where a defendant in an action brought by the assignee of debt or chose in action has had notice as in the last preceding rule mentioned, and thinks fit to pay the debt and costs into court to abide its decision, he shall upon such payment into court give to the registrar the name of the person against whose dispute of the assignment or conflicting claim he desires to be protected, and the registrar shall thereupon give notice to such person according to the form in the schedule form, and on the return-day of the summons the judge shall determine the rights of the parties, and may if he thinks fit order the defendant to pay all or any part of the costs.

Defendant in an action by assignee may pay money into court.

Form .

ORDER XXII.

REPLEVIN.

1. In actions of replevin no other cause of action shall be joined in the summons.

No other cause to be joined.

2. On entering a plaint in replevin, the plaintiff must specify and describe in a statement of particulars, the cattle, or the several goods and chattels taken, and of the distress or other taking of which he complains.

Particulars.

3. All actions of replevin in cases of distress for rent in arrear, or for damage feasant, shall be tried in a summary way as other actions in the courts holden under the authority of "The County Courts Act, 1846" (x), and the judgment therein, in ordinary cases, whether for plaintiff or defendant, shall be according to the forms set forth in the schedule.

Rent in arrear or damage feasant.
9 & 10 Vlt.
c. 95.

4. Where the distress is for rent, or for any other claim for which a distress may be lawfully taken, and the defendant succeeds in the action, if the defendant require, the court shall, if the action be tried without a jury, and the jury shall, if the action be tried with a jury, find the value of the goods distrained, and if the value be less than the amount of rent or otherwise of money in arrear, judgment shall be given for the amount of such value, but if the amount of the rent or such other sum of money in arrear be less than the value so found, judgment shall be given for the amount of such rent or other sum of money, and may be enforced in the same manner as any other judgment of the court.

Where defendant succeeds in action where distress is for rent.

5. Where the distress is for damage feasant, and the defendant is entitled to judgment for a return, if the plaintiff require, the judge shall, if the action be tried without a jury, and the jury shall, if the action be tried with a jury, find the amount of the damage sustained by the defendant, and judgment shall then be given in favour of the defendant, in the alternative, for a return, or for the amount of the damage so found.

Where defendant entitled to a return in damage feasant.

(x) See sect. 74 of that act, Vol. I. p. 67, and see also the general course of procedure on the trial, *Id.* Chapter VIII.

D.C.C.

K

In other
cases.

6. In all cases of replevin, other than those arising out of a seizure by way of distress, the judgment for the defendant shall be for a return of the goods with or without costs.

ORDER XXIII.

ARBITRATION.

Practice in.

9 & 10 Vict.
c. 95, s. 77.

1. Where a plaint is entered, the court may, with the consent of the parties, as well in cases within the ordinary jurisdiction of the court as in cases of agreement under section 23 of "The County Courts Act, 1856" (y), make an order for a reference, under the provisions of section 77 of "The County Courts Act, 1846" (z), before, upon, or after the return-day; and all the provisions in the last-mentioned act contained as to references shall apply to a reference proceeding under such an order; provided that the same fees shall be paid as would have been payable on a judgment by default.

ORDER XXIV.

ATTACHMENT OF DEBTS.

Where plain-
tiff desires
defendant to
be examined
at the trial as
to the debts
due to him he
must give
notice.

Examination
of defendant
as to debts
owing to him.

Order there-
upon.

Proceedings
against
garnishee.

30 & 31 Vict.
c. 142, s. 1.

1. Where a plaintiff is desirous that the defendant, if the defendant shall have judgment given against him, shall be orally examined forthwith after the judgment shall have been given, as to what debts are due and owing or accruing to him, the plaintiff shall, before the action is called on, lodge with the registrar a statement in writing of the name, address, and description of the person or persons whom he considers are debtors to the defendant and who quoad such debts are within the jurisdiction of the court.

2. Where such a statement has been lodged, the defendant, if he shall have had judgment given against him, may then be examined before the court at the request of the plaintiff as to any debts due, owing, or accruing to the defendant from any persons mentioned in the statement, and if any such person be then present, he may be required forthwith, if he admits the debt, to show cause why he should not be ordered to pay into court, for the benefit of the judgment creditor, such debts or so much thereof as will satisfy the judgment debt, and the court may make an order for the payment of such debts, or so much thereof as will satisfy the judgment debt, and such order shall be entered in the minute book, and may be enforced in like manner as any order made in any action in the court; and where such person pays the money as ordered, he shall not be liable for any costs, and an entry of the payment shall be made in the "cash book" and "ledger."

3. A plaintiff who has not lodged such statement, or a defendant who has obtained judgment against a plaintiff, may at any time after the judgment, upon lodging with the registrar of the court in which the judgment was given an affidavit stating the fact of the judgment, and of its being unsatisfied, and that a third person (hereinafter called the garnishee) is indebted to the judgment-debtor, and is quoad such debt within the jurisdiction of the court, and could be sued therein without leave or by leave under section 1 of "The County Courts Act, 1867" (a),

(y) See Vol. I. p. 33, and also
p. 149.

(z) See Vol. I. p. 237.
(a) See Vol. I. p. 140.

may enter a plaint to obtain payment to him of the amount of the debt due to the judgment-debtor from the garnishee, and where the garnishee is not quoad such debt within the jurisdiction of the court, the judgment-creditor, upon lodging a certificate of the judgment and a copy of the said affidavit with the registrar of the court in the district of which the garnishee resides or carries on business, may enter a plaint therein.

4. The summons on the plaint shall be personally served on the garnishee, and when so served it shall attach in the hands of the garnishee all debts due, owing, or accruing from him to the judgment-debtor. Service of garnishee summons.

5. Where the garnishee shall pay the money into court five clear days before the return-day, he shall not be liable for any costs incurred by the judgment-creditor. No costs where garnishee pays.

6. Upon the return-day the court shall determine as to the liability of the garnishee, and as to the party by whom the costs of the proceeding by plaint shall be paid, and make an order or orders in accordance with such determination. Order on trial.

7. Where the court in which the garnishee is sued is not the court in which the judgment upon which he is garnished was given, the registrar of such court shall send a certificate of the order of his court to the court in which such judgment was given, and of payment made, if any, before or after the return-day. Certificate of order and payment to be sent.

ORDER XXV.

PROCEEDINGS BY AND AGAINST EXECUTORS AND ADMINISTRATORS.

1. In actions by executors or administrators, if the plaintiff fail, the costs shall, unless the court shall otherwise order, be awarded in favour of the defendant, and shall be levied *de bonis propriis*. Costs where plaintiff fails.

2. Where an executor or administrator, plaintiff or defendant, shall not appear on the day of hearing, the provisions of sections 79 and 80 of "The County Courts Act, 1846" (b), and of section 10 of "The County Courts Acts, 1850" (c), shall apply respectively, subject to the rules applicable to executors or administrators suing or sued. Costs on non-appearance of either party.

3. A party suing an executor or administrator may charge in the summons, that the defendant has had assets, and has wasted them, and he shall state in his particulars the amount of assets alleged to have been left by the deceased, and the manner in which the said assets have been wasted. Devastavit.

4. In all cases where the defendant is so charged in the summons, if the court shall be of opinion that the defendant has wasted the assets, the judgment shall be that the debt or damage and costs shall be levied *de bonis testatoris, si, &c., et si non, de bonis propriis*; and the non-payment of the amount of the demand immediately on the court finding such demand to be correct, and that the defendant is chargeable in respect of assets, shall be conclusive evidence of wasting to the amount with which he is so chargeable. Judgment where devastavit charged.

5. Where a defendant sued as an executor or administrator admits his representative character, and only denies the demand, if the plaintiff prove it, the judgment shall be that the demand and costs shall be levied *de bonis testatoris, si, &c., et si non*, as to the costs, *de bonis propriis*. Judgment where representation admitted.

(b) See Vol. I. pp. 265, 270.

(c) See Vol. I. p. 272.

Judgment where representation admitted and administration alleged.

6. Where such defendant admits his representative character, but denies the demand, and alleges a total or partial administration of assets, and the plaintiff proves his demand, and the defendant proves the administration alleged, the judgment shall be to levy the costs of proving the demand *de bonis testatoris, si, &c., et si non, de bonis propriis*; and as to the whole or residue of the demand, judgment of assets, *quando acciderint*; and the plaintiff shall pay the defendant's costs of proving the administration of assets.

Judgment in like case where administration not proved.

7. Where such defendant admits his representative character, but denies the demand, and alleges a total or partial administration of assets, and the plaintiff proves his demand, but the defendant does *not* prove the administration alleged, the judgment shall be to levy the amount of the demand, if such amount of assets is shown to have come to the hands of the defendant, or such amount as is shown to have come to them, and costs, *de bonis testatoris, si, &c., et si non*, as to the costs, *de bonis propriis*, and as to the residue of the demand, if any, judgment of assets, *quando acciderint*.

Judgment in like case where administration proved.

8. Where such defendant admits his representative character and the plaintiff's demand, but alleges a total or partial administration of the assets, and proves the administration alleged, the judgment shall be for assets *quando acciderint*, and the plaintiff shall pay the defendant's costs of proving the administration of assets.

Judgment where administration not proved and no other defence established.

9. Where such defendant admits his representative character and the plaintiff's demand, but alleges a total or partial administration of the assets, but does *not* prove the administration alleged, and has not established any other ground of defence, the judgment shall be to levy the amount of the demand, if so much assets is shown to have come to the hands of the defendant, or such amount as is shown to have come to them, and costs, *de bonis testatoris, si, &c., et si non*, as to the costs, *de bonis propriis*, and as to the residue of the demand, if any, judgment of assets, *quando acciderint*.

Judgment on assets *quando acciderint*.

10. Where judgment has been given against an executor or administrator, that the amount be levied upon assets of the deceased *quando acciderint*, the plaintiff or his personal representative may issue a summons in the form according to the schedule, and if it shall appear that assets have come to the hands of the executor or administrator since the judgment, the court may order that the debt, damages and costs be levied *de bonis testatoris, si, &c., et si non*, as to the costs, *de bonis propriis*; provided that it shall be competent for the party applying to charge in the summons that the executor or administrator has wasted the assets of the testator or intestate, in the same manner as in rule 3, and the provision of rule 4 shall apply to such inquiry; and the court may, if it appear that the party charged has wasted the assets, direct a levy to be made as to the debt and costs, *de bonis testatoris, si, &c., et si non, de bonis propriis*.

Judgment on defendant's admission.

11. Where a defendant admits his representative character and the plaintiff's demand, and that he is chargeable with any sum in respect of assets, he shall pay such sum into court, subject to the rules relating to payment into court in other cases.

Judgment in other cases.

12. In actions against executors or administrators for which provision is not hereinbefore specially made, if the defendant fail as to any of his defences, the judgment shall be for the plaintiff as to his costs of disproving such defence, and such costs shall be levied *de bonis testatoris, si, &c., et si non, de bonis propriis*.

ORDER XXVI.

TRANSMISSION OF PROCESS AND PROCEEDS OF WARRANTS TO AND FROM FOREIGN DISTRICTS.

1. In all cases of warrants, whether against the goods or the person, to be executed in a foreign district, the registrar of the foreign court shall immediately on the receipt of the warrant enter it in "The Foreign Executions Re-issued Book."

Entry of warrants be executed in a foreign district.

2. Where, by virtue of any warrant sent to a foreign district, any money shall have been received by the bailiff of the foreign court, such bailiff shall, within twenty-four hours from the receiving of such money, pay over the same to the registrar of the foreign court, and shall, unless an interpleader summons as to such money be pending, make a return in writing of the amount received; and in the case of a levy having been made, the bailiff shall state in the return the gross amount produced by such levy, the particulars of the appraiser's and broker's charges, and the fees allowed for keeping possession, and pay over to the registrar of the foreign court the amount levied, less such charges and fees; and the registrar of the foreign court shall certify in the said return the amount paid into court, and the correctness of the said charges, and shall account for and pay over such amount to the treasurer of his court at such time as the treasurer shall require; and the high bailiff shall thereupon transmit such return to the high bailiff of the home court, as directed by section 104 of "The County Courts Act, 1846" (d), and such latter bailiff shall, within twenty-four hours from the receipt of such return, deliver the same to the registrar of his court, who shall thereupon pay out of any money in his hands, to the plaintiff in the action, the amount certified in such return to have been received by the registrar of the foreign court, as the proceeds of the execution, and shall enter in a book the amount so certified in the form set forth in the schedule, and the registrar of the home court shall file such return, and the registrar shall be allowed by the treasurer of his court, at his audit, the amount so paid.

Accounting for and transmission of proceeds levied in foreign district.

3. Where by virtue of any order of commitment to be executed in a foreign district any money shall be paid into the court of such district, the registrar shall transmit a certificate to the registrar of the home court of the amount so paid in, and shall account for and pay over the amount to the treasurer of his court at such time as the treasurer shall require; and the registrar of the home court shall upon the receipt of the certificate pay out of any money in his hands to the judgment-creditor the amount so certified to have been received by the registrar of the foreign court, and shall enter the same in the book mentioned in the last preceding rule, and shall file the certificate, and he shall be allowed by the treasurer of his court, at his audit, the amount so paid.

Certificate of money paid into court.

ORDER XXVII.

FUNDS (COUNTY COURTS ACT, 1865).

1. Where a party is directed to pay money into court under "The County Courts Act, 1865" (e), he shall attend and pay the same into the office of the registrar, and obtain a receipt for the amount; and the registrar shall, unless otherwise ordered by the judge, pay the same

Payment into county courts. 28 & 29 Vict. c. 99.

(d) See Vol. I. p. 315.

(e) See Vol. II. pp. 2, 19.

into a post office savings bank, in accordance with the provisions of sect. 26 of "The County Courts Act, 1867" (*f*).

Entry of payments.

2. The registrar shall enter in the "Cash Book" and "Ledger for Equitable Proceedings under the County Courts Act, 1865," all sums so paid to the account of the proceeding, in which it is paid, and where the interest of any fund, paid into a post office savings bank, has been directed to be paid to any person, the registrar shall pay the same half-yearly out of any general moneys in his hands.

Post office savings book to be transmitted.

3. In the first week of January in each year the registrar shall transmit to the postmaster-general his post office savings bank book, and upon its return he shall send a letter, according to the form in the schedule, to the commissioners of the treasury requesting them to authorize the postmaster-general to allow him to draw out a sum equal to the interest which he may have paid to persons during the then past year, and shall apportion the same and carry the proportion to the account of each fund on which he has paid interest as aforesaid.

Mode of withdrawing moneys from post office savings bank. Form

Interest to be apportioned.

4. The registrar, wherever he shall be directed by the court to draw out of a post office savings bank the fund or part of the fund in any suit or matter, shall send a letter to the commissioners of the treasury according to the form in the schedule.

5. Where money has before the 1st of January, 1868, been invested in stocks, and the investment is in the names of the treasurer and registrar alone, the registrar shall from time to time receive the dividends of all the funds so standing in their names, and shall re-invest the dividend in the same names, except where and so far as the court shall otherwise direct, and shall apportion the amount so re-invested in his books to the right accounts.

Order for payment of money under sect. 5 of 28 & 29 Vict. c. 99.

6. Where any order has been made upon any person to pay to the paymaster-general in Chancery any sum of money under section 5 of "The County Courts Act, 1865" (*f*), such order shall be drawn up by the registrar and issued to the bailiff of the court; by whom the same shall be served personally upon the person ordered to make the payment.

Warrant of execution on default under last section.

7. Where default shall be made in the production of the certificate of the paymaster-general in Chancery, the registrar shall give notice in writing to the judge of the fact of such default, and the judge may thereupon direct a warrant of execution to issue in accordance with section 5 of "The County Courts Act, 1865" (*f*).

Examination of married woman interested in fund.

8. Where any married woman is interested in any principal money, stocks, shares, or securities exceeding in value 200*l.*, or 10*l.*, in annual payments, she shall be examined by the judge apart from her husband to ascertain whether the same shall be paid to him or made the subject-matter of a settlement, and if the court think fit to make such settlement, and in all cases where the married woman is under age, shall by its judgment make such settlement accordingly: provided always, that the court may, if it thinks fit, order such settlement to be prepared by counsel and settled by the judge.

ORDER XXVIII.

NEW TRIAL.

Application for new trial.

1. An application for a new trial, or to set aside proceedings, may be made and determined on the return-day, if both parties be present, or

(*f*) See Vol. II. p. 97.

such application may be made at the first court holden next after the expiration of twelve clear days from such return-day; provided the intending applicant do, seven clear days before the holding of such court, deliver to the registrar at his office, and also give to the opposite party by serving the same personally on such party, or by leaving the same at his place of abode or place of business, a notice in writing, signed by himself or his solicitor, stating that such an application is intended to be made at such court, and setting forth shortly the grounds of such intended application; but such notice shall not operate as a stay of proceedings unless the judge shall otherwise order; and if any money paid into court under any execution or order in the action shall not have been paid out, when such notice in writing shall be given to the registrar, the registrar shall retain the same to abide the event of such application, or until the judge shall otherwise order; and if no such application be made, the money shall, if required, be paid over to the party in whose favour the order was made, unless the judge shall otherwise order; and if such notice be not given in manner aforesaid, or such application be not made at the court mentioned in the notice, no application for a new trial or to set aside proceedings shall be subsequently made, unless by leave of the judge, and on such terms as he shall think fit; provided that this rule shall not apply to cases falling within the provision of section 80 of "The County Courts Act, 1846" (g).

2. The judge may, in his discretion, make it a condition of granting a new trial, that it shall take place before a jury, although the former trial did not take place before a jury. New trial may be had before a jury.

3. Where a plaintiff desires to set aside a nonsuit, he shall proceed within the same time, give the same notice, and be subject in all respects to the same conditions, and follow the same practice as though judgment had been given for the defendant. Application to set aside nonsuit.

ORDER XXIX.

APPEAL BY SPECIAL CASE.

1. Any party dissatisfied with the judgment, order or direction of the court in point of law, or upon the admission or rejection of evidence, may, before the rising of the court on the day on which judgment was pronounced, deliver to the registrar a statement in writing, signed by him, his counsel or solicitor, containing the grounds of his dissatisfaction; and in the event of no such statement being delivered, the successful party may proceed on the judgment unless the judge shall otherwise order; but the judge may direct proceedings to be taken on the judgment notwithstanding such statement has been delivered: provided that the party so dissatisfied may appeal on grounds different from those contained in such statement, and although he shall not have delivered any such statement. Notice of appeal.

2. The ten days within which notice of appeal may be given shall be exclusive of the day of trial. Time for notice.

3. The notice of appeal shall be in writing, and shall state the grounds on which the party appeals, and shall be signed by the appellant, his solicitor or agent, and such notice shall be sent to the registrar as well as to the successful party, by post or otherwise. Form of notice.

(g) See Vol. I. pp. 270, 300.

Notice not a stay of execution.

4. The notice of appeal shall not operate as a stay of execution or of proceedings under the decision appealed from, unless the judge shall otherwise order, but the registrar shall detain the proceeds of any execution which may then be in or may come into his hands pending such appeal, to abide the event of such appeal, unless the judge shall otherwise order.

Case to be presented to judge.

5. The appellant shall prepare the case for appeal, and all cases on appeal shall, unless the judge shall otherwise order, be presented to him for signature at the court held next after the parties shall have agreed upon the same; and if the judge approves thereof it shall be signed by him, and sealed with the seal of the court; but where the judge does not approve of the case submitted to him, both parties shall be summoned to attend him where and when the judge shall appoint, and at the place and time so appointed both parties shall be heard as to the form of the case, and the judge shall finally settle and sign the same, and it shall then be sealed by the registrar.

Where parties do not agree, judge to settle case.

6. Where the parties do not agree upon the form of the case to be stated, the appellant shall lodge with the registrar the draft case prepared by him, and the registrar shall give notice to the parties that the same has been so lodged, and will, on a day to be named in the notice, be presented to the judge for his signature, and on such day the parties may appear before the judge, who shall determine the form of the case, and finally settle and sign the same, and it shall then be sealed by the registrar.

Copy of case to be deposited with registrar.

7. When the case shall be so signed and sealed, a copy thereof shall be deposited with the registrar, and another sent by post or otherwise by the appellant to the successful party within three clear days next after the time of signing and sealing the same, and if the appellant do not comply with this rule the successful party may proceed upon the order, notwithstanding proceedings have been stayed by order of the judge, unless the judge shall otherwise direct.

Case to be transmitted to High Court.

8. The appellant shall, within three days next after the case has been signed and sealed, transmit the same with a copy thereof under the seal of the court, by post or otherwise, to the proper officer of the High Court of Justice, and shall give notice, by post or otherwise, to the successful party that he has done so; in default whereof the successful party may proceed on the judgment as if no appeal had been made, and shall, on the application to the court, be entitled to such costs as he shall have incurred in consequence of the appellant's proceedings; provided that, instead of proceeding on such judgment, the respondent, if he think fit, may, within twenty-eight clear days from the signing and sealing of the case, transmit it in the manner prescribed, and give the like notice to the appellant of such transmission.

Judgment of Court of Appeal to be deposited.

9. When the Court of Appeal has pronounced judgment, either party may deposit the same, or an office copy thereof, with the registrar of the county court, and upon being so deposited such judgment shall be filed and may be enforced as if it had been made by the county court.

New trial.

10. A new trial, in pursuance of the order of the Court of Appeal, shall be entered for trial at the county court which shall be holden next after twelve clear days from the time when such order or office copy thereof shall have been deposited as aforesaid, unless the parties agree that it shall take place sooner, or the judge otherwise order, and it shall be conducted in the same manner as any new trial granted by the county court itself.

11. If the order of the Court of Appeal be that judgment shall be entered for either party, then such judgment shall be entered accordingly, and the successful party shall be at liberty to proceed on such judgment as on a judgment of the county court.

Proceedings
on judgment
of Court of
Appeal.

Appeals by Motion.

12. The foregoing rules in this order shall not apply to appeals by motion, but such appeals may be had under the provisions of section six of "The County Courts Act, 1875" (i).

Appeals.
88 & 89 Vict.
c. 50.

ORDER XXX.

SECURITY.

1. In all cases where a party proposes to give a bond by way of security, he shall serve, by post or otherwise, on the opposite party and the registrar, at his office, notice of the proposed sureties according to the form in the schedule, and the registrar shall forthwith give notice to both parties of the day and hour on which he proposes that the bond shall be executed, and shall state in the notice to the obligee, that should he have any valid objection to make to the sureties, or either of them, that it must then be made.

Security by
bond.

Form .

2. The sureties shall make an affidavit of their sufficiency according to the form in the schedule, unless the opposite party shall dispense with such affidavit.

Affidavit of
sufficiency.

Form .

3. The bond shall be executed in the presence of the judge or registrar, or a commissioner of the Supreme Court of Judicature.

Execution of
bond.

4. Where a party makes a deposit of money in lieu of giving a bond, he shall forthwith give notice to the opposite party, by post or otherwise, of such deposit having been made.

Deposit in
lieu of bond.

5. In all cases where the security is by bond, the bond shall be deposited with the registrar until the action be finally disposed of.

Bond to be
deposited.

6. No registrar, deputy registrar, registrar's clerk, bailiff, broker or other officer of the court, shall become surety in any case where, by the practice of the court, security is required.

Officers not
to be surety.

ORDER XXXI.

PROCEEDINGS UNDER THE TRUSTEES RELIEF ACT, TRUSTEE ACTS, AND MAINTENANCE AND ADVANCEMENT OF INFANTS.

1. Any person desiring to pay money, transfer stock, or deposit security in trust to attend the orders of any county court, under sect. 24 of "The County Courts Act, 1867" (l), shall file with the registrar of the county court having jurisdiction in the matter an affidavit, entitled in the matter of the last act, and of the particular trust, and setting forth:

28 & 29 Vict.
c. 99, s. 1 (5)
and (6) (k).

Form of affi-
davit under
sect. 24 of
30 & 31 Vict.
c. 142.

(1.) His own name, address, and description:

(2.) The place where he is to be served with any petition or summons, or any notice of any proceeding or order of the court relating to the trust fund:

(3.) The amount of money, stock, or security which he proposes to pay, transfer, or deposit in trust to attend the orders of the court:

(i) See *ante*, p. 7.

(l) *Id.* p. 19.

(k) See Vol. II. p. 3.

(4.) A short description of the trust or of the instrument creating it :

(5.) The names, addresses, and descriptions of the persons interested in or entitled to, or claiming to be interested in or entitled to the fund, to the best of the knowledge and belief of the trustee :

(6.) The submission of the trustee to answer all such inquiries relating to the application of the money or stock paid in or transferred, or securely deposited, as the court may think proper to make or direct.

Form in
schedule.

2. The affidavit may be according to the form in the schedule, with such variations as each particular case may require.

Memoran-
dum of filing
to be in-
dorsed.

3. Immediately on the receipt by the registrar of the affidavit, he shall indorse thereon a memorandum of the day on which the same was filed, and when such affidavit shall be so indorsed it shall be taken for all purposes to have been duly filed on the date so indorsed thereon.

Certificate of
filing may be
given.

4. The persons filing the affidavit, or any of them, may apply to the registrar to give to them a certificate entitled in the matter of "The County Courts Act, 1867," and of the particular trust, and under the seal of the court, certifying that the affidavit has been filed, and such certificate may be according to the form in the schedule, with such variation as each particular case may require.

Form .

Money may
be paid into
post office
savings bank.
Sect. 24 of
30 & 31 Vict.
c. 142.

5. In the case of money, the persons filing the affidavit, or any of them, may, upon the receipt of the before-mentioned certificate, pay the money into a post office savings bank, under sect. 24 of "The County Courts Act, 1867" (*m*), and obtain from the officer of the bank a receipt for the same, and shall forthwith leave the said receipt with the registrar, and the registrar shall accordingly indorse thereupon a memorandum of the day on which the same was received by him, and when such receipt shall be so indorsed it shall be taken for all purposes to have been duly recorded on the date so indorsed thereon.

Transfer of
stock.

6. In the case of stocks, the persons filing the affidavit, or any of them, may, upon the receipt of the before-mentioned certificate, transfer the stocks into the names of the treasurer and registrar of the county court mentioned in the said certificate, in trust to attend the orders of the court, and shall forthwith leave the transfer ticket with the registrar, and the registrar shall immediately indorse thereon a memorandum of the day on which the same was received by him, and when such transfer ticket shall be so indorsed it shall be taken for all purposes to have been duly recorded on the day so indorsed thereon.

Deposit of
security.

7. In the case of security, the person filing the affidavit may forthwith deposit the security with the registrar in the name of the treasurer and registrar, in trust to attend the orders of the court, and the registrar shall immediately indorse on the affidavit a memorandum of the day on which the security was deposited with him.

Notice of
deposit of
security.

8. The registrar shall, within twenty-four hours after the deposit of the security, send notice thereof by post to the treasurer of the court, stating therein the particulars of the deposit, which notice may be according to the form in the schedule, with such variations as each particular case may require.

Form .

Transfer or
deposit where
no treasurer.

9. Where there is a county court in which there is not a treasurer, the transfer or deposit shall be made into the name of the registrar and of the superintendent of the county court department of the treasury for the time being.

(*m*) See Vol. II. p. 19.

10. Immediately after the recording of the receipt or transfer ticket or the deposit of the security, the registrar shall give to the persons paying in the said money, or transferring the said stocks or depositing the security, an acknowledgment or certificate of such payment or transfer or deposit, and such acknowledgment or certificate may be according to the form in the schedule, with such variations as each particular case may require.

Certificate of payment, transfer or deposit to be given.

Form .

11. Immediately after the recording of the receipt or transfer ticket, or giving a certificate of deposit of security, the registrar shall cause an entry to be made in the book heretofore called the Suits and Proceedings in Equity Book of the *title of the particular trust*, and the *amount of money or stock paid or transferred, or security deposited*, and the names and addresses of the *person or persons making such payment, transfer or deposit*, and the names of every person stated in the affidavit to be or to claim to be interested in or entitled to such money or stock, and their addresses and descriptions, as given in the affidavit; and the registrar shall forthwith, by post, send to each of such last-mentioned persons, to the addresses given in the affidavit, a notice of the said payment, transfer, or deposit, which notice shall be under the seal of the court, and may be according to the form in the schedule, with such variations as each particular case may require.

Entries to be made in equity proceedings book.

12. Any person interested in or entitled to funds in court, or (if need be, but not otherwise) the trustee, who desires the directions of the court as to the investment, paying out, or distribution of the fund or income thereof, may file a petition setting forth shortly the particular trust in which he applies, and the substance of the order he seeks to obtain, and if the nature of the case require it, he shall give full particulars of his claim, and of the relief or remedy to which he claims to be entitled. The court, in adjusting the costs of the action, shall inquire at the instance of any party into any prolixity, and shall order the costs occasioned by such prolixity to be borne by the party chargeable with the same.

Petition by person interested in funds in court.

13. Where the application shall relate to the capital of the fund in court, the trustee and all persons interested in such fund must be served with the petition, unless the court shall otherwise direct; and where the application relates to the income only of the trust fund, the trustee only shall be served with the petition, unless the court shall otherwise direct.

Order for service of notice of application on trustee.

14. Where a trustee shall have availed himself of the provisions of sect. 24 of "The County Courts Act, 1867," without sufficient reason, the judge may direct such trustee to bear his own costs, and pay the costs of any other parties, or to bear and pay any part of such respective costs, as the judge shall think fit.

Trustee may be ordered to pay costs.

15. Subject to, and in accordance with the foregoing rules, all proceedings under the fifth and sixth clauses of the first section of "The County Courts Act, 1865" (n), shall be commenced by filing a petition.

Proceedings under 28 & 29 Vict. c. 99, s. 1 (5) & (6) to be by petition.

16. Petitions shall be filed and shall be delivered at the office of the registrar seven days before the sitting of the court at which the petition is to be heard or application made.

Time of filing petitions.

17. Upon the filing of any such petition, the registrar shall issue the copies under the seal of the court to the bailiff for service upon the respective persons to whom they are addressed, together with a notice,

Registrar to issue notices of day of hearing of petition.

(n) See Vol. II. p. 3.

signed by himself and under the seal of the court, informing them of the day and hour on which the petition will be heard, and that if they do not attend, either in person or by their solicitors, such order will be made and proceedings taken as the judge may think just and expedient.

Service of
petitions and
notices.

Facts may be
supported by
affidavit.

Registrar to
draw up
order.

Rules to
extend to pro-
ceedings
under this
order.

18. The bailiff of the court shall, four days at least before the hearing, serve all copies of such petitions and notices.

19. Upon the trial of any claim under this order, unless the judge shall otherwise direct, the facts relied upon in support of or in opposition to such claim shall be proved by affidavit.

20. Where the judge makes an order upon such petition the registrar shall, as soon thereafter as conveniently may be, draw up, seal, and file such order.

21. The preceding rules relating to proceedings which prior to the 1st of November, 1875, would have been commenced by a plaint in equity shall, in all cases where they are applicable, be construed as extending to proceedings under this order.

ORDER XXXII.

ASSESSORS (COUNTY COURTS ACT, 1875).

Registrar at
request of
judge to
frame a list of
assessors.

On approval
of a list by
judge to ob-
tain consent
of assessors to
act when
summoned.

List of assess-
ors to be
hung up in
court and
office.

Resignation
of assessors
how to be
made.

Name of
assessor re-
signing to be
removed from
list.

Remune-
ration of
assessors.

Application
to judge to
act with
assessors.

Application

1. The registrar of each county court shall, from time to time, at the request of the judge, submit to him the names of as many persons as the judge may direct, whom, having regard to the nature of the ordinary business of the circuit, and to their fitness, from ability and reputation, he believes to be qualified to act as assessors under sect. 5 of "The County Courts Act, 1875" (*o*), and the judge shall from the names so submitted frame a list of persons to act as assessors for each court within his circuit.

2. The registrar shall apply to such persons as the judge may approve to know if they are willing to act as such assessors and to attend any court they may be summoned to attend a reasonable time beforehand.

3. When the judge has completed the list of assessors, the registrar shall cause a printed list of their names in alphabetical order to be hung up in the court and office.

4. Every assessor named in the printed list shall continue to be an assessor until a new list of assessors shall have been framed and approved as aforesaid, or until he shall have given to the registrar notice in writing that he is unwilling to act as an assessor from and after a day to be named therein.

5. Upon the receipt of such notice the registrar shall remove the name of such person from the list of assessors.

6. Every person named in such list shall receive for each day's attendance one guinea or two guineas according as the subject-matter of the action does or does not exceed twenty pounds in value, together with such sum, if any, for his expenses as the judge may order.

7. A party who desires assessors to be summoned to assist the judge shall file an application therefor according to the form in the schedule, giving the names of the assessors he wishes to be summoned, and if he shall have obtained the consent of the other party to the assessors named he shall file such consent with his application.

8. Upon receipt of such application the registrar shall forward a copy

(*o*) See *ante*, p. 6.

of the same to the judge, who, if he sees fit, shall return the same with his approval, and thereupon the registrar shall forthwith summon the assessors named. If the judge shall not think fit that assessors shall be summoned, notice thereof shall be given by the registrar to all parties.

to be forwarded to judge and assessors to be summoned if judge approves.

9. Where the party so applying does not file with his application the consent of the other party to the appointment of the assessors proposed by him, the registrar shall, after obtaining the consent of the judge to the appointment of assessors as prescribed in the preceding rule, forthwith cause to be served on the other party notice of the application according to the form in the schedule, and the party so served shall, as soon as may be after receipt of the notice, inform the registrar in writing whether or not he accepts the appointment of the assessors proposed in such notice, or any of them, and shall therein give the names of such assessors as he is willing should be summoned.

Where opposite party does not accept the assessors proposed.

10. Where the party served with the notice mentioned in the preceding rule does not accept the proposed appointment he shall forthwith after receipt of such notice inform the registrar in writing of his non-acceptance and of the reasons thereof, and the registrar shall thereupon fix a time and place for hearing such objection and selecting the assessors to be summoned. Such objection may be heard either on the return-day of the summons or before the judge acting under the powers conferred on him by section 4 of "The County Courts Acts, 1875" (*p*), or by direction of the judge before the registrar. Notice of the time and place at which the objection will be heard shall be given to all parties interested. On the hearing such order shall be made as the judge or registrar shall think just, and any costs occasioned by the objection or consequent thereon may be ordered to be paid by the party objecting. When assessors are appointed they shall be summoned in the manner hereinbefore prescribed.

Where the party served does not accept the proposed appointment.

11. If at the time and place appointed for the trial the assessors summoned do not appear, the judge may either proceed to try the action, with the assistance of such one or more of the assessors, if any, as do appear, or, if none appear, without assistance, or he may adjourn the trial.

Where assessors or one of them fail to attend.

12. Every person requiring the judge to be assisted by assessors shall at the time of applying pay to the registrar the sum of two guineas if the amount claimed does not exceed 20*l.*, and four guineas if it does exceed that amount, and such payments shall be considered as costs in the action, unless otherwise ordered by the judge.

Payment on application for assessors by party.

13. Where an action is adjourned, the plaintiff shall pay the assessors' fees for the day of adjournment forthwith after the order of adjournment is made by the court.

Assessors' fees on adjournment.

ORDER XXXIII.

ADMIRALTY ACTIONS.

Sittings of the Court.

1. The judge may try or partly try the action at any place within the admiralty district of the court.

Where action may be tried.

2. Where application is made to the judge for the trial or part trial of an admiralty action at a place in which a county court does not sit,

Undertaking by solicitor for expenses.

(*p*) See *ante*, p. 6.

the solicitor shall file a præcipe undertaking to provide at his expense a place to the satisfaction of the judge in which the action may be tried, and pay the necessary expenses of the court and officers so attending.

Sittings of the court in admiralty.

3. The days of the sitting of the court shall be those appointed for the transaction of the ordinary general business of the county court held in the city or town mentioned in the name of the court, or such other days as the judge may from time to time appoint for the trying of an admiralty action where from the detention of a vessel or otherwise a prompt determination of the action is desirable.

Institution of Action.

Commencement of action.

4. A solicitor desiring to commence an admiralty action shall file a præcipe which shall state the nature of the action, the name, address, and description of the party in whose behalf it is instituted, the name of the solicitor, and an address within three miles of the court-house at which it shall be sufficient to leave all instruments and documents in the action required to be served upon him, and it shall also state the name of the owner or owners or other person against whom the action is instituted, or it shall state that the action is instituted against the vessel or other property to which the action relates.

Notice of commencement of action to be given to consul in certain cases.

5. In an admiralty action for wages against the owners of a foreign vessel, notice of the commencement of the action shall be given to the consul or vice-consul of the state to which the vessel belongs, if there be one resident within the district of the court, and a copy of the notice shall be annexed to the præcipe.

Summons.

Summons.

6. Immediately upon the filing of the præcipe the registrar shall issue a summons for service by the solicitor, or if so required, by the bailiff of the court.

Service of summons.

7. Where the vessel or property to which the action relates is within the district, the summons may be served by delivering it to the person who is at the time of service apparently in charge of the vessel or property, or, if there is no person in charge, by nailing it on the main mast or the single mast of the vessel ; and in other cases the summons must be served personally upon the defendant, unless the judge, or in his absence the registrar, shall upon facts duly verified upon affidavit allow of substituted service.

Appearance in Admiralty Actions.

Appearance.

8. A solicitor desiring to enter an appearance in an action shall file a præcipe, and thereupon an entry of his appearance shall be made in the Admiralty Suits Book.

Contents of præcipe.

9. The præcipe shall state the name, address, and description of the party on whose behalf the appearance is entered, the name of the solicitor, and an address within three miles of the court-house, at which it shall be sufficient to leave all instruments and documents in the action required to be served upon him.

Person claiming interest may intervene.

10. Any person claiming to have an interest in the vessel or property, whether cognizable by the court or not, may intervene for the purpose of having the case transferred to the High Court of Admiralty.

Appearance on arrest.

11. Upon the arrest of any vessel or property an appearance may be entered the same as upon the service of the summons.

12. Where an appearance has been entered the registrar shall upon application by either plaintiff's or defendant's solicitor give to each solicitor in the action, and where no appearance has been entered then to the plaintiff or his solicitor, a notice under the seal of the court, stating the day upon which the action has been directed by the judge to be heard. Notice of day of hearing.

Arrest.

13. Where after the commencement of an admiralty action, it is desired to arrest any vessel or property, the solicitor must file an affidavit stating the facts which render it probable that it will be removed out of the jurisdiction of the court. Affidavit to be filed.

14. In an admiralty action for necessaries or for wages the national character of the vessel shall be stated in the affidavit. When nationality of vessel to be stated.

15. Where upon the filing of such affidavit the registrar, in the absence of the judge, is satisfied with the evidence, he may issue a warrant for the arrest and detention of the vessel or property, and where he is not satisfied he may require further evidence to be adduced. When warrant for arrest may issue.

16. A warrant of arrest may be executed on Sunday, Good Friday, or Christmas Day, as well as on any other day. When warrant for arrest may be executed.

Release of Property.

17. Where in an admiralty action the amount sued for is paid into court, together with costs, or the security completed, or where the plaintiff's solicitor usually requires it, the registrar shall deliver to the solicitor an order directed to the high bailiff of the court, authorizing and directing him, upon payment of all costs, charges, and expenses attending the custody of the property, to release it forthwith. Release on payment into court.

18. Notwithstanding the last preceding rule, the property, in an admiralty action for salvage, shall not be released until its value has been ascertained either by affidavit, by agreement, or by appraisement, save by consent of the plaintiff or his solicitor. Release in salvage action.

Transfer of Action.

19. Where an action is transferred to the High Court of Justice by order thereof, the registrar of the court, upon the service of the order of transfer, shall send by post the proceedings to the proper officer of such court. Transmission of proceedings on transfer by High Court.

20. Where a court orders the transfer of an action to the High Court of Justice or to another court, the registrar shall send by post the order, together with the proceedings, to the registrar of the High Court of Justice or to the court to which it is transferred. The like on transfer to High Court.

Second or Cross Action.

21. Where it shall appear to the court that the plaintiff in an admiralty action (hereafter called the second action), was or is the defendant in an action (hereafter called the first action) in another court arising out of the same transaction, and that he did not propose to the plaintiff in the first action that by agreement jurisdiction should be given to the court in which the first action was instituted, to hear and determine the second action, the judge may refuse the plaintiff in the second action his costs if he shall think fit. Costs in cross action may be refused.

22. Where a second or cross action for damage has been instituted First and

second actions may be tried together.

by a defendant in an action for damage, and the second action has been instituted, by agreement or otherwise, in the court in which the first action was instituted, or has been transferred to the said court by order of any other court, the court may direct that both actions may be tried at the same time and upon the same evidence.

Proceedings on order against unknown defendant.

23. Where a judgment or order has been obtained against an unknown defendant, the vessel or property to which the action relates shall not be taken in execution, but it may be arrested and detained under the provisions of sect. 22 of "The County Courts Admiralty Jurisdiction Act, 1868" (q), or kept under arrest, if already arrested.

Proceedings on discovery of unknown defendant.

24. Where an order has been obtained in an action against an unknown defendant, and the name of the defendant is subsequently ascertained, the adverse solicitor may deliver to the registrar a præcipe stating the name, address, and description of the defendant, and thereupon the registrar shall issue to the solicitor, or if required to the bailiff for service, a notice of the judgment or order, stating that if the defendant does not within four clear days from the day of service deliver a præcipe to the registrar applying for a rehearing of the action, the vessel or property to which the action relates will be sold in execution.

Service of notice on defendant.

25. The notice shall be served personally upon the defendant, unless the judge, or in his absence the registrar, shall upon facts duly verified upon affidavit allow of substituted service.

Execution against Vessel.

Proceedings on execution against a vessel.

26. Where under a warrant of execution a vessel is seized, the high bailiff shall, before selling the same, cause an inventory and valuation thereof to be made by an appraiser, and the vessel shall not be sold for less than the appraised value thereof, except by order of the court, and 10s. per cent. on the appraised value of the vessel, with reasonable expenses for travelling and maintenance, if the vessel is beyond three miles from registrar's office, shall be allowed to the appraiser.

Proceeds of sale to be paid into court.

27. On the completion of the sale the high bailiff shall pay the proceeds arising therefrom into court, return the warrant, and file an account of the sale and of his fees thereon, signed by him, together with the certificate of appraisal signed by the appraiser.

Delivery of property to purchaser.

28. On the completion of the purchase the high bailiff shall deliver up the property to the purchaser, and if required so to do shall execute a bill of sale to him at the expense of the purchaser.

Transfer of Sale.

Proceedings on transfer of sale.

29. Where the vessel has been arrested or has been seized under a warrant of execution, and the sale of the vessel has been ordered to be transferred to the High Court of Justice, the vessel shall be retained by the high bailiff until the marshal shall, by order of the High Court of Justice, take possession thereof.

Application for transfer of proceedings for sale.

30. A solicitor desiring that the sale of any vessel or property should be conducted in the High Court of Justice, may at any time after judgment give security to the amount of 10l., and deliver to the registrar an application for an order for the transfer of the proceedings for sale to the said court.

Application

31. The registrar shall transmit such application to the judge for his

(q) See Vol. II. p. 170.

order thereon, if the court be not sitting, and shall in any case certify on the application that the security for costs has been given. to be transmitted to judge.

Notice of Defence in Collision.

32. Where in actions for damage by collision the defendant intends to set up as a defence that the vessel was by compulsion of law in the charge of a pilot, he should give notice thereof to the adverse solicitor as soon after the service of summons as may be, and if he shall fail to give such notice the judge shall, in exercising his discretion as to costs, consider what effect the non-delivery of the notice has had in the action. Notice of defence in actions for damage by collision.

Tenders.

33. A solicitor desiring to make a tender shall give a notice to the adverse solicitor of the terms and amount of the tender, and shall pay the amount into court, and deliver a præcipe. Notice of proposed tender.

34. Within forty-eight hours from the payment the adverse solicitor shall file a notice stating whether he accepts or rejects the tender, and, if he shall not do so, he shall be deemed to have rejected it. Notice of acceptance of tender.

Payment out of Court.

35. Money ordered in an admiralty action to be paid out of court may be paid to the solicitor without the production of a power of attorney from the party entitled to receive the money, unless the judge shall otherwise order. Payment out of court to solicitor.

36. Where more than one action has been instituted against a vessel or any property, and the same has been sold, the proceeds thereof shall be retained in court, to abide the decision of the court in the various actions, unless the judge shall otherwise order. Retainer of monies in court where more than one action.

Appraisement.

37. The registrar may, on the application of either solicitor, and whether before or after judgment, order any property under arrest to be appraised. Appraisement.

Records of the Court.

38. The solicitors in an action, their clerks, and the parties themselves, may, while the action is pending, and for one year after its termination, inspect, free of charge, all the records in the action. Inspection of records.

39. In a pending action no person other than the solicitor or his clerk, or the party in the action, shall be entitled to inspect the records in the action without the permission of the registrar. Who entitled to inspection during pendency of action.

40. In an action which is terminated, any person may, on delivering to the registrar a præcipe, and on payment of the proper fee, inspect the records in the action. The like on termination of action.

Copies.

41. Any person entitled to inspect any instrument or document in an action shall, on delivering to the registrar a præcipe, and on payment of the proper charges for the same, be entitled to an office copy thereof. Office copies.

Assessors.

42. Every solicitor requiring the judge to be assisted by two assessors shall at the time of delivering the præcipe pay to the registrar the sum of two guineas if the amount claimed does not exceed 100*l.*, and four Payment on application for assessors by party.

The like on
requirement
of judge.

guineas if it does exceed that amount, and such payments shall be considered as costs in the action, unless otherwise ordered by the judge.

43. Where the judge requires the assistance of two assessors, the above fees shall be paid by the plaintiff or his solicitor before the trial, and shall be costs in the action, unless otherwise ordered by the judge.

Assessors' fees
on adjourn-
ment.

44. Where an action is adjourned, the plaintiff shall pay the assessors' fees for the day of adjournment forthwith after the order of adjournment is made by the court.

Selection of
assessors.

45. Upon the delivery of the aforesaid præcipe or upon the order of the judge as last aforesaid, the registrar shall select from the list of assessors the names of two persons whom he may, having reference to the nature of the action to be tried, consider most capable of assisting the judge in trying and determining it, and shall send to each of such persons by post a summons in the form annexed.

Payment to
assessors.

46. The registrar of the court shall pay to every assessor for each day's attendance and service in every action one guinea or two guineas, according as the amount claimed in the action does or does not exceed 100*l*.

ORDER XXXIV.

AGRICULTURAL HOLDINGS (ENGLAND) ACT, 1875.

Interpreta-
tion.
38 & 39 Vict.
c. 92.

1. When an appeal is made to the judge against an award made under "The Agricultural Holdings (England) Act, 1875" (*r*), the party prosecuting the appeal shall be called the appellant and the party supporting the award the respondent.

Statement of
grounds of
appeal to be
filed.

2. The appellant shall, within four days after the delivery of the award, file a copy thereof, together with a concise statement in writing of his grounds of appeal, which shall contain the following particulars:—

- (1.) If the appeal shall be made on the ground mentioned in section 36, sub-section 1 (*s*), of the last-mentioned act, a statement of the several objections to the validity of the award on which he relies :
- (2.) If the appeal is on any of the grounds mentioned in sub-section 2 (*s*) of the last-mentioned section, a statement showing in respect of what matters compensation is alleged to have been improperly awarded :
- (3.) If the appeal is made on any of the grounds mentioned in sub-section 3 (*s*) of the last-mentioned section, a statement showing in respect of what matters compensation is alleged to have been improperly withheld :
- (4.) No ground of appeal shall be allowed at the trial unless the foregoing provision of this rule shall, in respect of such ground, have been complied with :
- (5.) The names, in full, and address of the respondent and of the appellant, and of his solicitor if the proceedings are commenced through a solicitor.

Copy of state-
ment to be
sent to re-
spondent.

3. The registrar shall, within twenty-four hours after the filing of the concise statement, transmit a copy thereof by post to every respondent at the address furnished to him, accompanied by a notice requiring the respondent to comply with the provisions of the next following rule, according to the form in the schedule.

Form

(*r*) See *ante*, p. 38.

(*s*) See *ante*, p. 44.

4. The respondent shall, within eight days after the transmission of the grounds of appeal to him, deliver to the registrar a statement in writing, signed by himself or his solicitor, disclosing the following matters :—

Respondent
to deliver
statement in
reply.

(1.) Whether he disputes the validity in law of all, or any, and which of the grounds of objection to the award :

(2.) Whether he disputes the truth in fact of all, or any, and which of the grounds of appeal :

(3.) Whether he admits the validity in law and truth in fact of all, or any, and which of the grounds of appeal :

(4.) Whether he prays that the case may be remitted to be re-heard :

(5.) His name and address, and that of his solicitor if the statement be delivered through a solicitor.

5. The judge shall hear and determine the appeal, and the order thereupon may be enforced in the same manner as any other judgment of the court.

Order.

6. Upon the receipt of the statement mentioned in the next preceding rule the registrar shall transmit a copy thereof and of the award and grounds of appeal to the judge, who shall, as soon as conveniently may be, appoint a time and place for the hearing of the appeal, and instruct the registrar to give notice thereof forthwith to the parties.

Copies of both
statements to
be sent to
judge.

7. Every application for the appointment of a referee or umpire under section 22, sub-sections 6 and 9 (*t*), or under section 23, sub-section 2 (*u*), of the act, shall be by summons sealed with the seal of the court, and returnable not less than seven days from the date thereof, except by consent. Such summons shall be taken out by the party applying, and shall be addressed to the other party, and shall direct the party summoned to attend at the judge's or registrar's chambers (as the case may be) on the return-day thereof, for the purpose of proceeding with the appointment asked for. Such summons shall be personally served by the applicant's solicitor. The appointment may be made by endorsement on the summons.

Proceedings
in applica-
tions for
referee or
umpire.

8. All rules for the time being in force regulating the conduct of appeals by way of special case shall apply to appeals from the judge to the High Court of Justice, so far as circumstances will permit.

Appeal to
High Court.

ORDER XXXV.

PROCEEDINGS UNDER THE FRIENDLY SOCIETIES ACT, 1875.

1. All applications to the court by the trustees or authorised officers of a friendly society in respect of any of the matters mentioned in sect. 20 of "The Friendly Societies Act, 1875" (*x*), shall, whether any bond be put in suit or not, be by action commenced by plaintiff and summons in the ordinary way in which the society or the trustees or authorised officers thereof shall be plaintiffs and the person against whom the application is made defendant.

Applications
to be made
by plaintiff.
38 & 39 Vict.
c. 60.

2. If the application be made by action without putting the bond in suit, the summons or the particulars annexed thereto shall state shortly the nature of the act required to be done or the neglect complained of.

Particulars.

3. If the act required to be done be the delivering up of any pro-

Where pro-

(*t*) See *ante*, p. 42.

(*x*) See *ante*, p. 27.

(*u*) See *ante*, p. 43.

perty is
required to be
delivered up.
Reference
under sect. 22
to be by
plaint.

perty, the summons or the particulars annexed thereto shall contain an intelligible description of the property required to be given up.

4. Every dispute which shall be referred to the county court under section 22 (z) of the said act shall be so referred by action commenced by plaint and summons in the ordinary way in which the claiming or aggrieved member or other person shall be the plaintiff, and the society by such of the persons authorised by section 21 (z) of the said act to be sued on behalf of the society as the plaintiff shall elect to sue shall be defendant.

Summons.

5. The summons or the particulars annexed thereto shall state correctly the nature of the dispute referred, and the relief which the plaintiff claims.

ORDER XXXVI.

Costs.

Taxation of
costs.

1. All costs shall be taxed by the registrar of the court, subject to the review of such taxation by the judge.

Taxation of
costs under
80 & 81 Vict.
c. 142, ss. 7
and 10.

2. In taxing the costs incurred in the High Court of Justice previous to the transmission of the action to the county court under sects. 7 or 10 of "The County Courts Act, 1867" (a), the registrar shall tax the same according to the scale of costs and fees in use in such High Court of Justice.

Costs of wit-
nesses.

3. The costs of witnesses, whether they have been examined or not, may, unless otherwise ordered by the court, be allowed, though they have not been summoned, but their allowance for attendance shall in no case exceed the highest rate of the allowances mentioned in the scale in the schedule.

Compensation
to seamen.

4. Seamen necessarily detained on shore for the purpose of the action shall be allowed such remuneration as the court may think reasonable compensation for their loss of time.

Appropriation
of monies paid
into court.

5. Money paid into court on a judgment shall be appropriated first in satisfaction of the court fees and costs, and afterwards in satisfaction of the original demand.

Costs of war-
rants.

6. Costs of warrants against the goods, whether executed or unexecuted or unproductive, shall be allowed against the defendant, unless the judge shall otherwise direct.

Possession
fees.

9 & 10 Vict.
c. 95, s.
106 (b).

7. No possession fee shall be payable where an execution is paid out at the time of the levy; but if the officer shall necessarily remain in possession more than half an hour, and the execution shall be paid out on the day of levy, the possession fee for that day shall be charged.

Appraise-
ment.

8. No appraisement is to be made until the fifth day of the bailiff's holding possession of the goods under an execution, unless where the goods are of a perishable nature, or are sold at the request of the party, before the expiration of four days, or unless the goods are removed.

Taxation of
costs under
19 & 20 Vict.
c. 108, s. 28.

9. Costs in actions under "The County Courts Act, 1856," s. 23 (c), shall be taxed according to the scale of taxation used in the High Court of Justice, so far as it is directly applicable; and where it is not so applicable, the principle of that scale shall be followed.

Costs in ac-

10. Costs in actions for the recovery of tenements and in actions of

(z) See *ante*, p. 28.

(a) See Vol. I. pp. 445, 448.

(b) See Vol. I. p. 336.

(c) See Vol. I. p. 33.

replevin may, where the fees of court are paid on 5*l.* or upwards, be allowed to solicitors upon the scale applicable to actions on contract where the amount claimed exceeds 20*l.*, if the judge shall so order.

11. In actions where the claim exceeds 20*l.* and the plaintiff recovers less than 20*l.*, he shall, if the judge shall so order, be entitled to recover costs, according to the scale relating to actions above 20*l.*, and the defendant, if successful, shall be entitled to recover costs according to the said scale, unless the judge shall otherwise order.

12. Where from the amount, or from the nature of any defence or counter-claim, the costs in an action for recovering or enforcing the same would be taxed upon a higher scale than that applicable to the action in which such defence or counter-claim is made, then the costs shall be taxed upon such higher scale.

13. Where the plaintiff recovers less than the amount of his claim, so as to reduce the scale of court fees and costs, he shall pay the difference, unless the reduction shall be caused by a set-off.

tions for the recovery of tenements and replevin.

Costs in actions where claim exceeds 20*l.*

Costs of counter-claim.

Costs where plaintiff recovers less than he claims.

ORDER XXXVII.

PRACTICE.

1. A default summons may, at the request of the plaintiff, be exchanged, without fee, for an ordinary summons upon the former being filed in court within one month of its issue.

Exchange of default summons.

2. Where any party changes his solicitor he shall give notice in writing of such change to the registrar, stating the name or firm and place of business of the new solicitor, and the registrar shall file the notice.

Notice of change of solicitor.

3. Copies of all proceedings or documents to be prepared by the registrar shall be prepared by him for any party requiring the same, upon payment of the costs of such copies when the order for the same is given.

Copies of documents to be paid for.

4. A folio is to comprise seventy-two words, every figure being counted as one word.

Folios.

5. Upon transmission of the plaint note, with a request and a receipt (duly stamped where necessary) by a party to whose credit money has been paid into a court other than the court within the district of which such party resides or carries on business, the registrar of the court into which the money has been paid shall transmit such money to such party by registered post letter, enclosing a crossed cheque or a post office order less the cost of remittance, and such remittance shall be at the risk of the said party.

Payment out of court by cheque or post office order.

6. Where a person desires to enter a plaint in a court within the district of which he does not reside, he may, instead of attending in person or by agent at the court, transmit, free of cost, to the registrar the following:—

Entry of plaint by letter.

- (1.) A præcipe showing the name, address, and description of the plaintiff and defendants, the cause of action, and the amount claimed, and where the claim exceeds 40*s.*, as many copies of the statement of the particulars or cause of action as there are defendants, and an additional copy to file.
- (2.) A post office order for the fees payable upon the entry of the plaint payable at the post office of the court town.
- (3.) An envelope addressed to himself, with a penny postage stamp thereon.

Metropolitan
courts.

Party may
act by soli-
citor or agent.

Service on
solicitor
deemed ser-
vice on party.

Practice on
service by
solicitor.

Notice of in-
terlocutory
proceedings
may be served
by solicitor.

Notice in lieu
of service.

Newspaper
advertisements.

Advertise-
ments for
London
Gazette.

Conduct of
action.

Enlargement
or abridgment
of time.

Transfer of
actions com-
menced in
different
courts.

Interest al-
lowed to cre-
ditors in ac-
tions for ad-
ministration.

Interest on
legacies.

And upon the receipt of the above the registrar shall enter the plaint, and forward the plaint note to the plaintiff in the addressed envelope.

7. For the purpose of the two foregoing rules the several districts of the metropolitan courts shall be considered *inter se* as one district only.

8. Where by these rules any act may be done by any party, such act may be done either in person or by his solicitor or agent, if it can be legally done by an agent.

9. Where a party acts by solicitor, service of any proceeding or document upon such solicitor, or delivery of the same at his office, or sending the same to him by post, shall be deemed to be good service upon the party for whom such solicitor acts, as upon the day when the same is so served or delivered, or upon which in the ordinary course of post it would be delivered, except in cases where by these orders personal service upon a party is required.

10. Where a solicitor undertakes the service of any process, he shall make the necessary copies of each process, and the registrar shall seal the same and return them to the solicitor for service.

11. Any notice relating to any interlocutory proceeding may, by leave of the registrar, be served by the solicitor of the party requiring to effect such service; but the costs of such service, and proof thereof, shall not be allowed, except by order of the court.

12. Where by reason of the absence of any party, or from any other sufficient cause, the service of any summons (other than an ordinary or a default summons), notice, proceeding, or document cannot be made, the judge or registrar may, upon an affidavit showing grounds, order notice by advertisement or otherwise in lieu of such service.

13. The judge or registrar shall order in what newspaper any advertisements which may from time to time be ordered in any action or proceeding shall be inserted; and the expense of such advertisements shall be paid to the registrar by the party requiring the same before they are inserted.

14. All advertisements to be inserted in the London Gazette shall be transmitted by the registrar for insertion to the registrar of county court judgments in London.

15. The judge, or in his absence the registrar, may order what party shall have the conduct of any action or proceeding.

16. The judge or registrar may, upon such terms, if any, as he may think reasonable, enlarge or abridge any of the times fixed by these rules for taking any step or filing any document, or giving any notice, in any action or proceeding.

17. Where actions shall be commenced in different courts by parties in the same interest, upon application by any of the parties they shall be transferred to the court in which the first plaint was entered, and shall there be proceeded with in the same way in all respects as if they had been commenced in that court.

18. Where an estate has been ordered to be administered, creditors shall be entitled to interest in respect of debts as to such of them as carry interest after the rate they respectively carry, and as to all others after the rate of 4*l.* per cent. per annum, from the date of the order, and to costs of successfully proving such debts.

19. Interest is to be computed on legacies after the rate of 4*l.* per cent. per annum, from the end of one year from the date of the testator's death, unless otherwise ordered, or a different rate or time of payment is directed by the will.

20. Any person who may be in custody, other than under an order under "The Debtors Act, 1869" (*d*), may be discharged by the registrar, upon giving to the party at whose instance he was committed notice of his intention so to apply two clear days previous to his applying, and such discharge may be given according to the form in the schedule.

Discharge of person in custody.

Form .

21. All proceedings and documents may be in forms similar to the forms in the schedule to these rules, where the same are applicable; and in cases where no forms are provided, parties shall frame the proceedings or documents, using as guides those contained in the said schedule.

Where no forms in schedule.

22. Where any judge of county courts acting for any other judge of county courts under sect. 20 of "The County Courts Act, 1867" (*e*), shall sign any order or other document, the registrar shall make a memorandum at the foot thereof according to the form in the schedule.

Judge acting for another.
30 & 31 Vict.
c. 142, s. 20.

Form .

23. Where a plaintiff is desirous of not proceeding in the action, he may give notice to the registrar and to the defendant by post that he will not proceed with the action, and after the receipt of such notice the defendant may apply for an order against the plaintiff for the costs incurred before the receipt of such notice, and of attending the court on the return-day to obtain such order.

Notice of discontinuance.

24. Any defendant in an action to recover lands may at any time before the return-day confess the action as to the whole or any part of the lands by signing in the presence of the registrar or one of his clerks, or of a solicitor of the Supreme Court, and attested by the person in whose presence it is signed, an admission of the title of the plaintiff to the lands or to the said part thereof, and of his right to the possession thereof; and the registrar shall upon the receipt of such admission forthwith give notice thereof by post to the plaintiff, and the judge may on the return-day, upon proof of the signature of the defendant or defendants to such admission by affidavit or otherwise, in case the same is not attested by the registrar or clerk, and without any further proof of the plaintiff's title (if no defendant other than the defendant signing such admission defends for the said lands or the said part thereof), give judgment for the plaintiff for the recovery of possession and for costs. Provided that if the plaintiff receive notice of such admission before the return-day, he shall not be entitled as against the defendant or defendants signing to any costs incurred subsequently to the receipt of such notice, except the costs of attending the court on the return-day, unless the judge shall otherwise order. Provided also, that where the admission is not signed by all the defendants defending for the said lands, or the said part thereof, the trial shall proceed against these non-admitting defendants, as if no admission had been signed.

Confession by defendant in action to recover land.

25. Where an action can be brought to recover possession of a tenement under the provisions of "The County Courts Act, 1856," no action shall be brought under "The County Courts Act, 1867."

Actions under 19 & 20 Vict.
c. 108, ss. 50,
52 (*f*), not to be brought under 30 & 31 Vict. c. 142, s. 12 (*g*).

26. The parties to any action, at any time before the action is called on, may by consent and without payment of any trial fee, postpone the trial to such subsequent court as the judge shall direct, but on such subsequent court such fee shall be paid or the cause be struck out.

Adjournment of trial.

(*d*) See Vol. I. p. 352. *Quære* as to the application of this rule.

(*e*) See Vol. I. p. 99.

(*f*) See Vol. I. p. 414.

(*g*) *Id.* p. 36.

No order of adjournment need be served.

Adjournment for non-compliance with rules.

Costs on adjournment.

Postponement of trial.

Filing of documents.

Sealing of documents.

Form of notice.

Computation of periods of twenty-four and forty-eight hours.

When process may not be served.

Transmission of letters sent by post.

Affidavits to be expressed in the first person.

Sources of knowledge to be stated.

Costs of affidavits when disallowed.

27. Where any action is adjourned, no order of adjournment shall be served on either party, unless by direction of the judge.

28. When anything required by the practice of the court to be done by either party, before or during the trial, has not been done, the judge may, in his discretion, and on such terms as he shall think fit, adjourn the trial to enable the party to comply with the practice.

29. Where a cause is adjourned by the court at the hearing-day owing to its not being reached, the judge may allow a fee for the day's attendance to counsel and solicitor where engaged, and such costs shall be costs in the cause.

30. Where it appears to the judge or registrar that from the course of proceedings in any action the trial cannot be held on the return-day of the summons, he may postpone the trial until such other day as the state of the proceedings require, and give notice of such postponement to all parties and persons interested.

31. Where any particulars or other document whatsoever is directed to be filed, it shall be filed with the registrar of the court, together with as many copies thereof as there are parties to be served, and the names, addresses, and descriptions of such parties, and an additional copy for the use of the judge if required.

32. Before any summons, notice, or other document, or any copy thereof, shall be issued by the registrar, the same shall be sealed with the seal of the court.

33. Where by these rules any party is required to give notice according to a form mentioned in the schedule, it shall be sufficient if the notice given complies substantially with such form.

34. In all cases where anything is required by the rules of practice to be done within a period of twenty-four hours, or within a period of forty-eight hours, no part of any day appointed by royal proclamation for a public fast, humiliation, or thanksgiving, or of any day on which the offices of the court need not be open under these rules or under any order of the Lord Chancellor, shall be included in the computation of such period.

35. No process shall be served or executed on Sunday, Christmas Day, or Good Friday, nor shall any process be served on any day appointed by royal proclamation for a public fast, humiliation, or thanksgiving, or on any day on which the offices of the courts need not be open under these rules or under any order of the Lord Chancellor; but such days shall be counted in the computation of the time required by these rules in respect of service.

36. All letters or process sent by post by or to the officers of the courts, or by or to parties in any action, shall be prepaid, and shall not be sent by book post.

37. All affidavits shall be expressed in the first person of the deponent, and drawn up in paragraphs and numbered.

38. All affidavits other than those for which forms are given in the schedule, shall state the deponent's age, occupation, quality, and place of residence, and also what facts or circumstances deposed to are within deponent's own knowledge, and his means of knowledge, and what facts or circumstances deposed to are known to, or believed by him by reason of information derived from other sources than his own knowledge, and what such sources are.

39. The costs of affidavits not in conformity with the last two preceding rules shall be disallowed on taxation, unless the court shall otherwise direct.

40. Before any affidavit is used it shall be filed in the office of the registrar, but this rule shall not hinder a judge from making an order in an urgent case upon the undertaking of the applicant to file any affidavit sworn before the making of such order, provided that such order be not issued until such affidavit shall have been filed.

Filing of affidavits.

41. No affidavit in which there is any knife erasure, or which is blotted so as to obliterate any word, or which is illegibly written, or so altered as to cause it to be illegible, nor any affidavit in which there is any interlineation, unless the person before whom the same is sworn shall have duly initialled such interlineation, nor any affidavit or other document which is so imperfect upon the face, or by reason of having blanks thereon that it cannot easily be read or understood, shall be filed or used in any action or proceeding, unless the judge shall otherwise order.

Erasure, blotting, interlineation, &c. in affidavits.

42. Where a defendant shall be out of England, the judge, or in his absence the registrar, may, upon an affidavit of the fact, direct the service of the plaint and summons to be effected within such time and in such manner as the judge or registrar may think fit.

Service when defendant is out of jurisdiction of county courts.

Detinue.

43. The judgment in detinue, if for the plaintiff, shall be for the value of the goods detained, together with a sum to be stated in the judgment by way of damages for the detention and costs; but it may be made part of the order that on payment of damages for the detention, and costs, and return of the goods on or before a day to be named, satisfaction shall be entered.

Judgment in detinue.

Confessions under "The County Courts Act, 1850."

44. All confessions under section 8 of this act (*h*) shall be delivered to the registrar five clear days before the return-day: provided that, at any time before the cause is called on, the defendant may confess and admit the claim according to the form set forth in the schedule, subject, however, to an order by the judge to pay such costs as the plaintiff has incurred in consequence of the defendant's not having delivered such confession as hereinbefore required.

Confessions under 18 & 14 Vict. c. 61, s. 8.
Form .

Consents to Judgment under "The County Courts Act, 1850."

45. In all cases of consent under section 9 of this act (*i*) the defendant may confess the amount of the plaintiff's costs besides the court fees, and the judgment may be entered accordingly, and the amount of the plaintiff's costs shall be stated separately.

Consents under 18 & 14 Vict. c. 61, s. 9.

Cases under "The County Courts Act, 1856."

46. Where the parties, in pursuance of section 23 of this act (*k*) agree to try any action in a county court, a plaint shall be entered, and a summons shall be issued thereon, as in other cases, and all the rules and practice of the court shall be adopted in such cases, so far as the same are applicable.

Trials by agreement under 19 & 20 Vict. c. 108, s. 23.

(*h*) See Vol. I. p. 196.
(*i*) See Vol. I. p. 198.

(*k*) See Vol. I. p. 33.

"Bills of Exchange Act, 1855."

Leave to defend under 18 & 19 Vict. c. 67, s. 2.

47. Where a defendant applies for leave to defend he shall satisfy the judge, or in his absence the registrar, by affidavit, that good grounds exist for granting leave to defend the action, and shall file with the registrar such affidavit, together with a copy thereof, and shall, if required so to do by the judge or registrar, give security according to the provision of section 2 of "The Bills of Exchange Act, 1855" (l).

Notice of trial to be given.

48. Where leave is given to defend, the registrar shall appoint the cause to be heard at the first convenient sitting of the court to be held after such leave is granted, and shall send to the plaintiff notice thereof according to the form set forth in the schedule, together with a copy of the affidavits made by the defendant, and shall also send to the defendant by post a notice according to the form in the schedule.

Form .
Applications under 18 & 19 Vict. c. 67, s. 2.

49. Any application, under section 3 of "The Bills of Exchange Act, 1855" (m), to set aside the judgment, shall be made to the judge of the court; but until the judge can hear the same, execution shall be stayed, upon the defendants giving security to abide the decision of the judge.

"Employers and Workmen Act, 1875."

Power of court in actions between employers and workmen.

50. In any action between employers and workmen the court may exercise any of the powers mentioned in sub-section 1 of section 3 of "The Employers and Workmen Act, 1875" (n), although the parties may not have given any of the notices required by Orders IX. and X. of these rules.

Registry of Judgments.

Return of judgments in City of London court.

51. A return of every judgment entered in the "City of London Court" for the sum of 10*l.* and upwards, shall be transmitted by the registrar to the registrar of county courts judgments in London, in the same manner as returns of judgments entered in a county court are now transmitted.

Note of order in admiralty and equity to be sent.

52. A note of every judgment or order in an admiralty action, or in any action which, before the 2nd November, 1875, would have been the subject of a plaint or petition in equity, shall within ten days of the making thereof be transmitted by the registrar to the registrar of county courts judgments in London, who shall register the same as heretofore.

Rules not to be added to.

Rules to be adhered to.

53. No practice shall prevail in any court except as provided by these rules, nor shall any matter be added to or taken from any form in the schedule, whereby any obligation shall be imposed upon any suitor to which he is not liable under statute or these rules.

ORDER XXXVIII.

APPLICATION OF PRECEDING ORDERS.

Application of rules of procedure.

The rules of procedure contained in the preceding orders shall apply to proceedings under the "County Courts Admiralty Jurisdiction Acts, 1868 and 1869" (o), the "Agricultural Holdings (England) Act, 1875" (p),

(l) See Vol. I. pp. 189, 207.

(m) See Vol. I. p. 208.

(n) See *ante*, p. 37.

(o) See Vol. II. pp. 154, 159, 161, 175.

(p) See *ante*, p. 38.

and the "Friendly Societies Act, 1875" (*q*), except where Orders XXXIII., XXXIV., and XXXV., provide any other or inconsistent mode of procedure.

ORDER XXXIX.

"THE COMPANIES ACTS, 1862 AND 1867," "THE INDUSTRIAL AND PROVIDENT SOCIETIES ACT, 1862," AND "THE BUILDING SOCIETIES ACT, 1874."

The general orders, rules, and forms of the Chancery Division of the High Court of Justice regulating for the time being the mode of proceeding under "The Companies Acts, 1862 and 1867," shall be the orders, rules, and forms in all proceedings in the county courts for the winding up of a society registered under "The Industrial and Provident Societies Act, 1862" (*r*), "The Building Societies Act, 1874" (*s*), or for the winding up of a company under "The Companies Acts, 1862 and 1867" (*t*), so far as the same are applicable: Provided that where it shall appear to the court inconvenient that the bank of England should be the bank used for the purposes mentioned in the order and rules, it shall be competent for the court to name some bank to be used in lieu of the bank of England.

25 & 26 Vict.
cc. 86, 89;
30 & 31 Vict.
c. 131, s. 44;
37 & 38 Vict.
c. 42, s. 32.

ORDER XL.

Proceedings in Acts not referred to in the foregoing Rules.

Where by any act not before mentioned in the foregoing rules proceedings are directed to be taken in a county court, such proceedings shall be commenced by plaint or petition; and the foregoing rules shall apply to such proceedings, so far as such rules are respectively applicable.

Proceedings
in acts not
referred to in
foregoing
rules.

(*q*) See *ante*, p. 22.

(*r*) See Vol. I. p. 46, and Vol. II.
p. 138.

(*s*) See *ante*, p. 15.

(*t*) See Vol. II. p. 138.

SCHEDULE OF FORMS.

NOTE.—*In all forms to be printed for the future the number of plaint and number of warrant should be put, and the seal impressed on the right hand corner of the form, instead of the left hand corner, so as to facilitate reference where papers are joined together.*

Summonses, affidavits, notices, judgments, orders, warrants, and other proceedings taken under the acts to which Orders XXXI., XXXIII., XXXIV., XXXV., XXXIX., and Order XXXVII., Rules 47 and 50, relate, should be entitled with the acts respectively referred to in those orders and rules.

1.

General Form of Heading and Conclusion of all Notices and Admissions.

No. of plaint.

In the county court of holden at .

[Where sent or issued by court. *Seal.*]

Between A. B., plaintiff,
and
C. D., defendant.

* * * * *

Dated this day of .

Registrar [*or person sending notice
on making admission*].

2.

*General Form of Heading and Conclusion of Orders,
Judgments and Warrants.*

No. of plaint.

In the county court of holden at .

(Seal.)

Between A. B., plaintiff,
and
C. D., defendant.

The day of 187 .
* * *

By the court,
Registrar of the court.

3.

General Form of Heading and Conclusion of Affidavits.

(Except where otherwise hereafter given.)

No. of plaint.

In the county court of holden at .

Between A. B., plaintiff,

and

C. D., defendant.

Sworn at in the county of ,
 this day of , one thousand }
 eight hundred and , before me }

4.

*Mem. to be made on any Order or other Document signed by
one Judge acting for another.*

This [*as the case may be*] was made [*or granted*] and signed by judge Z. acting in the matter for judge A., under the provisions of sect. 20 of "The County Courts Act, 1867."

5.

Mem. to be placed at foot of every Summons, Notice, Judgment, Order, Warrant, or any other Process of the Court.

Hours of attendance at the office of the registrar [*place of office*] from ten till four o'clock, except on [*here insert the day on which the office will be closed*] when the office will be closed at one o'clock.

6.

Memorandum to be put on all Complaint Notes.

Bring this note when you come to the court or to the office for any purpose connected with this action. On the day of hearing bring all books, &c. necessary to prove your case.

Money will be paid out of court ONLY on production of this note, and upon your or your agent's PERSONAL ATTENDANCE if you reside within the district..

If the defendant will sign a statement at the office of the registrar confessing that he owes you the money, or if you and he will sign an agreement at the registrar's office as to the amount due, and will consent to a judgment, you will only have to pay half the hearing fee.

If the debt or claim exceed five pounds, you may have the action tried by a jury, on giving notice in writing at the registrar's office three clear days before the hearing, and on payment of five shillings for fees of jury.

Summonses for witnesses and for the production of documents may be obtained at the office, upon payment of the proper fee.

Plaint-Note (Ordinary Summons).

(Seal.)
No. of Plaintiff.

Fees paid.

£	s.	d.
—	—	—

Registrar of the Court.

N.B.—IF YOU OBTAIN A JUDGMENT AGAINST THE DEFENDANT, ALL MONEYS ORDERED TO BE PAID THEREUNDER MUST BE PAID INTO COURT, AND MUST NOT BE RECEIVED BY YOU. (See sect. 45 of "The County Courts Act, 1856.")

Plaint-Note (Default Summons) under Sect. 1 of "The County Courts Act, 1875."

No. of Plaintiff.

(Seal.)

£	s.	d.

The above action was entered this day, under sect. 1 of "The County Courts Act, 1875," and you will be entitled to judgment at the expiration of sixteen days from the date of the personal service of the summons, inclusive of the

Dated this day of 187 .

N.B.—Judgment must be entered within six months from the service of the summons, after which period the action will be struck out.

9.

In the county court of holden at .

**Between A. B., plaintiff,
and
C. D., defendant.**

The day of 187 .

Fees paid.

£ | s. | d.

” ” ”

” ” ”

£	s.	d.
—	—	—

Registrar of the Court.

N.B.—Judgment must be entered within six months from the service of the summons, after which period the action will be struck out.

10.

**80 & 31 Vict.
c. 142, s. 1.**

In the county court of holden at .

I hereby request that you will serve the accompanying summons immediately, and return the enclosed copy of the same to me properly endorsed, showing the fact and mode of the service. The defendant [or witness] is stated to reside at [here insert the full address given in the summons].

Registrar of the court.

**To the high bailiff of the county court
of holden at ,**

11.

Ordinary Summons.

(To be used in cases for which other forms are not specially provided.)

In the county court of holden at .
No. of plaint.
(Seal.)

Between A. B., plaintiff,
[Address, description,]
and
C. D., defendant.
[Address, description.]

(a) Insert
this when
necessary.

(a.) [Issued "by leave of the court" or "by leave of the registrar."]
You are hereby summoned to appear at a county court to be holden
at on the day of 18 , at the hour of in the
noon, to answer the plaintiff, to a claim, the particulars of which are hereunto
annexed. [Where the amount of the claim does not exceed forty shillings,
after "claim" strike out the words "the particulars of which are hereunto
annexed," and state shortly the substance of the claim.]
Dated this day of 18 .

Registrar of the court.
£ s. d.

Debt or claim
Costs of plaint
Solicitor's costs
Total amount £					

To the defendant.
[N.B.—IF YOU OWE THE MONEY, AND WILL CONSENT TO A JUDGMENT,
YOU WILL SAVE HALF THE HEARING FEE.]

SEE BACK.

[To be indorsed on the Summons.]

If you confess the plaintiff's claim,—by doing which you will save half the hearing fee,—you should sign a confession, printed forms for which may be obtained at the office, before the registrar of the court five clear days before the return day, that is, the day of hearing. The confession, if not signed before the registrar, must be signed before a solicitor; but you may deliver your confession to the registrar at any time before the action is called on, subject to the payment of any further costs which your delay may have caused the plaintiff to incur.
If you and the plaintiff can agree as to the amount due and the mode of payment, and will before the action is called on for trial sign a memorandum of such agreement at the registrar's office or before a solicitor, you will save half the hearing fee.
If you pay the debt and costs, as stated in the summons, five clear days before the hearing, you will avoid further costs; but you may pay the same at any time before the action is called on for trial, subject to the payment of any further costs which your delay may have caused the plaintiff to incur.
If you admit a part only of the claim, you may by paying into the registrar's office the amount so admitted, five clear days before the day of hearing, together with costs proportionate to the amount you pay in, avoid further costs unless the plaintiff proves a demand exceeding your payment.

If you intend to dispute the plaintiff's claim on any of the following grounds,—

1. That the plaintiff owes you a debt which you claim should be set off against it;
2. That you were under twenty-one when the debt claimed was contracted;
3. That you were then, or are now, a married woman;
4. That the debt claimed is more than six years old;
5. That you have been discharged from the plaintiff's claim under a Bankrupt or Insolvent Act;
6. Tender;
7. Statutory or equitable defence;

you must give notice thereof to the registrar five clear days before the return-day; and such notice must contain the particulars required by the rules of the court; and you must deliver to the registrar as many copies of such notice as there are plaintiffs, and an additional copy for the use of the court. If your DEFENCE be a SET-OFF, you must, with the notice thereof, also deliver to the registrar a statement of the particulars thereof. If your DEFENCE be a TENDER, you must pay into court, before or at the trial, the amount tendered.

If the debt or claim exceed five pounds you may have the action tried by a jury, on giving notice in writing at the registrar's office three clear days before the hearing, and on payment of five shillings for the use of such jury.

Summonses for witnesses and for the production of documents by them will be issued upon application at the office of the registrar of the court, upon payment of the proper fee.

NOTE.—An ordinary Summons is to be printed in pica type, leaded, on a half-sheet of cream wove foolscap, fourteen pounds or thereabouts.

12.

Summons in Chambers.

[Heading as in No. 11.]

LET ALL PARTIES CONCERNED attend at my chambers (state where) on the day of 187 , at o'clock in the noon on the hearing of an application on the part of (state on whose behalf the application is made and the precise object of the application).

Judge or Registrar.

Dated this day of 187 .

This summons was taken out by A. B., of , solicitor for the applicant.

To (state the name and address of the person to whom this summons is directed, or of his solicitor).

13.

Notice of Non-Service of an Ordinary Summons.

TAKE NOTICE, that the summons in this action has not been served, for the following reason:—

Dated this day of 187 .

To the

[Plaintiff.]

E. F., High Bailiff.

D.C.C.

M

14.

Notice of Doubtful Service of an Ordinary Summons.

TAKE NOTICE, that the summons in this action was left at the address given by you, and [here insert the bailiff's return of service, as endorsed on the summons]. You must therefore be prepared at the hearing to satisfy the court that the summons has come to the defendant's knowledge.

To the Plaintiff.

15.

28 & 29 Vict.
c. 50, s. 1.

Affidavit of Debt. "County Courts Act, 1875," s. 1.

In the County Court of _____, holden at _____
I, A. B., of _____, do hereby make oath and say, that C. D., of [address, occupation and description] is indebted to me in the sum of _____ for [add, where the action is brought for a demand not exceeding five pounds, and I further say that the _____ were sold and delivered [or let on hire] to the said C. D. to be used or dealt with in the way of his trade [or profession or calling] of _____ A. B.

Sworn at, &c.

NOTE.—[When affidavit is made by a clerk alter the form accordingly, and add the following: That I am a person in the employ of A. B., and that I am duly authorized by him to make this affidavit, and that it is within my own knowledge that the aforesaid debt was incurred, and for the consideration above stated, and that such debt, to the best of my knowledge and belief, still remains unpaid and unsatisfied.]

16.

28 & 29 Vict.
c. 50, s. 1.

** Default Summons under Sect. 1 of "The County Courts Act, 1875."*

[Heading as in ordinary summons, No. 11.]

TAKE NOTICE, that, unless within sixteen days after the personal service of this summons on you, inclusive of the day of such service, you return to the registrar of this court at [place of office] the notice given below, dated and signed by yourself or your solicitor, you will not afterwards be allowed to make any defence to the claim which the plaintiff makes on you, as per margin, the particulars of which are hereunto annexed; but the plaintiff may, without giving any further proof in support of such claim than the affidavit filed in court herein, proceed to judgment and execution. If you return such notice to the registrar within the time specified, the registrar will send you by post notice of the day upon which the action will be tried.

	s.	d.
Claim
Fee for plaint
Solicitor's costs (where payable)	}	
Total amount of debt and costs...		

Dated this _____ day of _____ 187 .

To the Defendant.

See below.

____ Registrar of the Court.

[N.B.—This summons must be served within a period of six months from the date hereof, or within such extended period as may be allowed.]

* This summons is to be printed in pica type, leaded, on a half-sheet of salmon-tinted foolscap paper, fourteen pounds or thereabouts.

NOTICE OF INTENTION TO DEFEND, OR TO OBJECT TO THE JURISDICTION OF THE COURT.

[To be at foot of Summons.]

No. of Plaintiff.

Order VIII.,
Rule 27.

In the County Court of * holden at .

*A. B. v. C. D.

I intend to defend this action [or to object to the jurisdiction of the court].

Dated this day of 187 . .

———— (a) Defendant.

• (To be filled in by registrar previous to issue of summons.)

(a) Here must be signed the name of defendant or of his solicitor, and in the latter case the words "solicitor for," together with his address, must be prefixed.

SEE BACK.

[To be indorsed on the Summons.]

If you pay the debt and costs, as per margin on the other side, into the registrar's office, within sixteen days after the service of this summons, and without returning the notice of intention to defend or to object to the jurisdiction of the court, you will avoid further costs.

If you do not return the notice of intention to defend or to object to the jurisdiction of the court, but allow judgment against you by default, you will *save half the hearing fee*, and the order upon such judgment will be to pay the debt and costs forthwith [or by instalments, to be specified as in plaintiff's written consent].

If you admit a part only of the claim, you must return the notice of intention to defend within the time specified on the summons; and you may, by paying into the registrar's office at the same time the amount so admitted, together with costs proportionate to the amount you pay in, avoid further costs, unless the plaintiff at the trial shall prove a claim against you exceeding the sum so paid.

If you intend to dispute the plaintiff's claim on any of the following grounds,—

1. That the plaintiff owes you a debt which you claim should be set off against it;
2. That you were under twenty-one when the debt claimed was contracted;
3. That you were then, or are now, a married woman;
4. That the debt claimed is more than six years old;
5. That you have been discharged from the plaintiff's claim under a Bankrupt or Insolvent Act;
6. Tender;
7. Statutory or equitable defence;

you must give, with the notice of intention to defend, notice of such special defence; and such last-mentioned notice must contain the particulars required by the rules of the court; and you must deliver to the registrar as many copies of such notice as there are plaintiffs, and an additional copy for the use of the court. If your defence be a set-off, you must, with the notice thereof, also deliver to the registrar a statement of the particulars thereof. If your defence be a tender, you must pay into court, before or at the trial, the amount tendered.

If you give such notice of intention to defend within the time specified, you may, *if the debt exceeds five pounds*, have the case tried by a jury, on giving notice in writing at the registrar's office three clear days before the trial, and on payment of five shillings for the use of such jury.

Summonses for witnesses and for the production of documents by them will

be issued upon application at the office of the registrar of this court, upon payment of the proper fee.

NOTE.—*This summons is to be printed on a half-sheet of salmon-tinted foolscap paper, with the "Notice of intention to defend or object" separated by a perforated line, so that it may be torn off for transmission to the registrar.*

17.

***Default Summons under "The Bills of Exchange Act, 1855."**

[*Heading as in ordinary summons, No. 11.*]

18 & 19 Vict.
c. 67.

Take notice, that unless within twelve days after the service of this summons on you, inclusive of the day of such service, you obtain leave from the judge or registrar of this court, to defend this action, the plaintiff may proceed to judgment and execution.

Dated this day of 187 .

Registrar of the Court.

To the defendant.

[*N.B.—This summons must be personally served on the defendant within six calendar months from the date thereof, and not afterwards.*]

Indorsement to be made on the Summons before Service thereof.

The plaintiff claims £ for principal and interest [*or* balance of principal and interest], due to him as the payee [*or* indorsee] of a bill of exchange [*or* promissory note], a copy of which is hereunto annexed, and also for noting and bank expenses, and the sum of for court fees [and for solicitor's costs herein]: And if the amount thereof be paid to the registrar of the court four days from the service hereof, no further proceedings will be taken.

Leave to defend may be obtained upon application at the office of the registrar of this court, supported by affidavit, showing that there is a defence to the action on the merits, or disclosing facts showing that it is reasonable that the defendant should be allowed to defend the action.

Indorsement on Copy Default Summons after Service.

This summons was served by personally on [*the defendant or the defendants*] on the day of 187 .

* This summons is to be printed in pica type, leaded, on a half-sheet of salmon-tinted foolscap paper, 14lbs. or thereabouts.

18.

Notice of Service of Default Summons.

38 & 39 Vict.
c. 50, and
18 & 19 Vict.
c. 67.

You are hereby informed that the defendant has [*or has not*] been served with the summons issued in this action [*when he has not been served add why it has not been served*].

High Bailiff.

To the plaintiff.

19.

Notice of Day of Trial where Defendant served with a Default Summons has given Notice of Defence.

Take notice, that this action will be tried at a court to be holden on the
day of at o'clock in the noon.

38 & 39 Vict.
c. 50, s. 1.

20.

Summons to Witness to give Evidence.

You are hereby required to attend at [*the court house in*] on
the day of 187 , at the hour of of in the noon,
to give evidence in the above cause on behalf of the [*plaintiff or defendant,*
as the case may be].

9 & 10 Vict.
c. 95, ss.
85, 86.

Dated this day of 187 .
Registrar of the Court.

To

21.

Summons to Witness to produce Documents.

You are hereby required to attend at [*the court house in*] on
the day of 187 , at the hour of of in the noon,
on the hearing of the above cause, and then and there to have and produce
the several documents hereunder specified, and all other books, papers, writings,
and other documents relating to the above cause, which may be in your custody,
possession or power. In default of your attendance, you will be liable to a
penalty of ten pounds, under sect. 86 of the County Courts Act, 1846 (9 & 10
Vict. c. 95).

9 & 10 Vict.
c. 95, ss.
85, 86.

Dated this day of 187 .
Registrar of the Court.

To

[*Here insert list of documents required to be produced.*]

22.

Notice to be sent with all Warrants of Execution against the Goods.

Take notice, that the warrant of execution against your goods on the judgment obtained against you in this action is for the following amount :—

	£	s.	d.
Amount for which judgment was obtained			
Since paid by you into court			
Remaining due on judgment			
Poundage for issuing this warrant			
Total amount to be levied			

The costs of keeping possession of such of your goods as may be seized is SIXPENCE IN THE POUND PER DAY ON THE VALUE OF SUCH GOODS.

If you pay the amount to be levied within half an hour of the entry of the bailiff, you will not be required to pay to him any further sum than the amount directed to be levied as stated above.

If your goods are removed, you will have to pay the appraisement fee as under mentioned.

Your goods are not to be sold until after the end of five days next following the day on which they were seized, unless they be of a perishable nature, or at your request.

If your goods are sold, the following fees are chargeable for the appraisement and sale, and no others :—

For the appraisement, SIXPENCE IN THE POUND on the value of the goods appraised, over and above the stamp duty.

For the sale, including advertisements, catalogues, sale and commission, and delivery of the goods, ONE SHILLING IN THE POUND ON THE NET PRODUCE OF THE SALE.

23.

Judgment for Defendant, or of Nonsuit.

9 & 10 Vict.
c. 95, s. 79.

Upon hearing this cause at a court holden this day, it is adjudged that judgment be entered for the defendant [*or that judgment of nonsuit be entered*], and that the plaintiff do pay the sum of £ for the defendant's costs: And it is ordered that the plaintiff do pay the same to the registrar of this court on the day of .

24.

Judgment for Plaintiff.

Acknowledgment of payment
into court.

Date.	£	s.	d.	Received by
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____

It is this day adjudged that the plaintiff do recover against the defendant the sum of £ for debt [*or damages*], and £ for costs, amounting together to the sum of £ .

And it is ordered that the defendant do pay the same to the registrar of the court, on the day of [*or by instalments of for every days ; the first instalment to be paid on the day of 18*].

[In case default be made in payment of any one of such instalments, and execution issue, it shall be for the whole of the above amount then remaining due.]

This form will, by striking out the words within brackets, or the words "on the day of " in line 6, apply to judgments of payment, whether for payment forthwith of the whole claim or by instalments, and to judgments under sect. 9 of "The County Courts Act, 1850," 13 & 14 Vict. c. 61, and also to judgments in replevin, where the judgment is for the plaintiff.

25.

Notice to Plaintiff of Payment of Instalment.

I hereby give you notice, that A. B., the defendant, has paid into court the sum of £ under the judgment obtained by you against him.

[N.B.— Upon your applying for the above amount it will be necessary that you should produce or send the plaint-note given to you on the entry of the plaint.]

26.

Admission of Claim or part of Claim under Sect. 8 of "The County Courts Act, 1850." 13 & 14 Vict.
c. 61, s. 8.

I, the defendant, do hereby confess and admit that the sum of £ the amount claimed [or the sum of £ , being part of the amount claimed by the plaintiff in this action] is due to him from me [and that I will pay the same by instalments of].

Dated this day of 187 .
Signed in the presence of .

This paper marked A. is the statement referred to in the annexed Affidavit.

27.

Affidavit of Signature to Admission, Sect. 8 of "The County Courts Act, 1850." 13 & 14 Vict.
c. 61, s. 8.

I, of , gentleman, solicitor of her Majesty's Supreme Court of Judicature, make oath and say, that I was present on the day of one thousand eight hundred and seventy , and did see the above-named defendant sign the statement hereunto annexed, marked with the letter A., and that the name set to the said statement is in the handwriting of the defendant, and that the name set to the said statement as the witness attesting the same is in my handwriting.

28.

Notice to Plaintiff of Admission of Claim under Sect. 8 of 13 & 14 Vict. c. 61. 13 & 14 Vict.
c. 61, s. 8.

I do hereby give you notice, that the defendant has filed a statement confessing and admitting the amount claimed by you [and proposing to pay the same by instalments of], and that it will not be necessary for you to attend on the day of hearing [unless you object to receive the same by instalments as proposed], but judgment will not be entered unless you shall pay to the registrar on or before such day the sum of being the fee for the judgment, or shall remit the said sum to the registrar by post-office order or otherwise. 19 & 20 Vict.
c. 108, s. 78.

29.

Notice to Plaintiff of Admission of Part of Claim, under Sect. 8 of the 13 & 14 Vict. c. 61. 13 & 14 Vict.
c. 61, s. 8.

I do hereby give you notice, that the defendant has filed a statement confessing and admitting £ , part of the amount claimed by you [and proposing to pay the same by instalments of].

19 & 20 Vict.
c. 108, s. 78.

If you consent to accept the amount so admitted [and to the mode of payment by instalments as proposed], it will not be necessary for you to attend on the day of hearing; but judgment will not be entered unless you shall pay to the registrar on or before such day the sum of _____ being the fee for the judgment, or shall remit the said sum to the registrar by post-office order, or otherwise.

If, however, you do not consent to accept the sum so admitted, in satisfaction of your claim, you must be prepared to prove the same.

30.

13 & 14 Vict.
c. 61, s. 9.

Admission under Sect. 9 of 13 & 14 Vict. c. 61.

We, the plaintiff and defendant, do hereby agree that the amount of the debt or demand due from the defendant to the plaintiff is £ _____ and that the same, with £ _____ for the plaintiff's costs, and £ _____ the court fees, shall be paid to the registrar of the court at his office, _____ in manner following, viz.

Dated this _____ day of _____ 187 .

} Signatures of plaintiff
and defendant.

Signed in the presence of _____ .

This paper marked A. is the statement referred to in the annexed Affidavit.

31.

13 & 14 Vict.
c. 61, s. 9.

Affidavit of Signature under Sect. 9 of 13 & 14 Vict. c. 61.

I, _____ of _____, gentleman, solicitor of her Majesty's Supreme Court of Judicature, make oath and say, that I was present on the _____ day of _____ one thousand eight hundred and sixty _____, and did see the plaintiff and defendant respectively sign the statement hereunto annexed, marked with the letter A., and that the name _____ set to the said statement is in the handwriting of the plaintiff, and that the name _____ set to the said statement is in the handwriting of the defendant, and that the name _____ set to the said statement as the witness attesting the same is in my handwriting.

32.

Warrant of Execution against the Goods of Defendant.

9 & 10 Vict.
c. 95, ss.
94, 95.

Whereas on the _____ day of _____ 187 , the plaintiff obtained a judgment in this court against the defendant for the sum of £ _____ for debt [or damages] and costs; and it was thereupon ordered by the court that the defendant should pay the same to the registrar on the _____ day of _____ [or by instalments of _____ for every _____ days]:

And whereas default has been made in payment according to the said order: These are therefore to require and order you forthwith to make and levy by distress and sale of the goods and chattels of the defendant, wheresoever they may be found, within the district of this court (except the wearing apparel and bedding of him or his family, and the tools and implements of his trade, if any, to the value of five pounds), the sum stated at the foot of this warrant, being the amount due to the plaintiff under the said order, including the costs of this execution; and also to seize and take any money or bank notes

(whether of the Bank of England or of any other bank), and any cheques, bills of exchange, promissory notes, bonds, specialities, or securities for money of the defendant which may there be found, or such part or so much thereof as may be sufficient to satisfy this execution, and the costs of making and executing the same, and to pay what you shall have so levied to the registrar of this court, and make return of what you have done under this warrant immediately upon the execution thereof.

Given under the seal of the court this

day of187 .

By the Court,

Registrar of the Court.

To the High Bailiff of the said Court,
and others the Bailiffs thereof.

	£	s.	d.
Amount for which judgment was obtained			
Paid into court			
Remaining due			
Poundage for issuing this warrant			
Total amount to be levied			

NOTICE.—The goods and chattels are not to be sold until after the end of five days next following the day on which they were seized, unless they be of a perishable nature, or at the request of the defendant.

Application was made to the registrar for this warrant at

minutes

19 & 20 Vict.
past the hour of

in the

noon of the

day of

187 .

c. 108, s. 46.

This form will also apply to a warrant of execution upon a judgment under sect. 9 of "The County Courts Act, 1850," 13 & 14 Vict. c. 61, s. 9 ; and by leaving out the words "and whereas default has been made in payment according to the said order," to a warrant of execution under a default summons.

33.

Warrant of Execution against the Goods of Plaintiff.

Whereas at a court holden at

on the

day of

187 ,

it was

9 & 10 Vict.

ordered by the court, that judgment should be entered for the defendant [

or

c. 95, s. 94.
that judgment of nonsuit be entered], and that the plaintiff should pay to the registrar of the court, on or before the

day of

the sum of
£

for the defendant's costs of suit :

And whereas default has been made in payment according to the said order: These are therefore to require and order you forthwith to make and levy by distress and sale of the goods and chattels of the plaintiff, wheresoever they may be found within the district of this court (excepting the wearing apparel and bedding of him or his family, and the tools and implements of his trade, if any, to the value of five pounds), the sum stated at the foot of this warrant being the amount due to the defendant under the said judgment, including the costs of this execution; and also to seize and take any money or bank notes (whether of the Bank of England or of any other bank), and any cheques, bills of exchange, promissory notes, bonds, specialties, or securities for money of the plaintiff which may there be found, or such part or so much thereof as

may be sufficient to satisfy this execution, and the costs of making and executing the same, and to pay what you shall have so levied to the registrar of the court, and make return of what you have done under this warrant immediately upon the execution thereof.

Given under the seal of the court this day of 187 .
By the Court,
Registrar of the Court.

To the High Bailiff of the said Court,
and others the Bailiffs thereof.

							£	s.	d.
Costs adjudged			
Paid into court			
Remaining due			
Poundage for issuing this warrant			
Total amount to be levied			

NOTICE.—The goods and chattels are not to be sold until after the end of five days next following the day on which they were seized, unless they be of a perishable nature, or at the request of the said plaintiff.

19 & 20 Vict.
c. 108, s. 46.

Application was made to the registrar for this warrant at minutes
past the hour of in the noon of the day of 187 .

34.

Affidavit in support of Application for substituted Service.

I, J. S. of [address and description], make oath and say as follows :—
State facts showing either that summons has come to the knowledge of defendant, or that he wilfully evades service of the same. Or, that upon inquiry at his usual place of abode, or at any other place where prior to the time when the plaint was entered he might probably have been met with, he could not be found so as to be served, and that in either case there is just ground to believe that he has gone out of the realm or otherwise absconded to avoid being served.
Then state deponent's means of knowledge of the facts deposed to.
Sworn, &c.

35.

Order for Leave to proceed as if Service had been effected.

On the application of , and on reading the affidavit of , I do order that on the plaintiff be at liberty to proceed as if the above defendant had been personally served in this action.

[Judge or Registrar.]

36.

Notice by Plaintiff of Consent to accept Instalments.

(To be annexed to summons.)

[Title of Action.]

Take notice, that payment of the amount sued for herein will be accepted Order IV.,
by instalments of *[state amount of instalment]* payable on the *[state the Rule 8.*
time or times at which the instalments will be accepted].

Dated this day of 187 .

[Plaintiff] or
[Plaintiff's solicitor] or
[Plaintiff's agent].

To the above-named *[defendant or defendants]*.

37.

County Court of holden at

Order XXXII.

List of Gentlemen who have consented to act as Assessors in this Court under Sect. 5 of "The County Courts Act, 1875."

No.	Name.	Address.	Description.
1	A. B. 		
2	C. D. 		
3	E. F. 		
4	G. H. 		
5	I. K. 		
6	L. M. 		
7	N. O. 		
8	P. Q. 		
9	R. S. 		
10	T. V. 		
11	U. W. 		
12	X. Y. 		

FORMS UNDER "THE DEBTORS ACT, 1869,"
IN WHICH SPECIAL MATTER SHOULD BE PRINTED.

38.

Certified Copy of Order or Judgment.

The County Court of _____, holden at _____, on the _____ day of _____, 187____, before _____, Judge of the said Court.

MINUTES OF JUDGMENTS, ORDERS, and other PROCEEDINGS at a Court held at _____ on the _____ day of _____, 187____, before _____, Judge of the said Court.

No.	Plaintiff.	Appearance.	Defendant.	Appearance.	Particulars of Claim.	Amount claimed.	Special Defence.	By whom Jury required.	For whom Judgment given.	Amount of Judgment.	Costs.	Order.

Amount of judgment or order, including costs	£	s.	d.
Subsequent costs			
Paid into court			
Total sum now due			

I HEREBY CERTIFY that the above is a true copy of an entry in the Minute Book, Judgments, Orders, and other Proceedings of the _____ County Court of _____ holden at _____ Dated this _____ day of _____ 187____ Registrar.

Notes.—If the Judgment or Order is entered in any Minute or Order Book of a different form to the above, then the certificate must follow the form of such book.

39.

Judgment-Summons on an Order or Judgment of a County Court.*(The figures are inserted ex. gr.)*

“The Debtors Act, 1869.”

In the [*title of court issuing summons*].

No. of plaint.

No. of judgment-summons.

Between A. B., plaintiff,

[*Address, description,*]

and

C. D., defendant,

[*Present address, description, and, if known, place of employment.*]

Whereas the plaintiff obtained a judgment [*or if no judgment has been obtained, or if a fresh order has been obtained upon a judgment, an order*] against you, the above-named defendant, in this court [*or in the county court of holden at*] on the day of 187 , for the payment of 10*l.* for debt [*or damages*] and costs, and subsequent costs have been incurred in pursuance thereof amounting to 15*s.*:

And whereas you have made default in payment of the sum payable in pursuance of the said judgment [*or order*]:

You are therefore hereby summoned to appear personally in this court at [*place where court holden*], on the day of 187 , at the hour of in the noon to be examined on oath by the court touching the means you have or have had since the date of the judgment [*or order*] to satisfy the sum payable in pursuance of the said judgment [*or order*]; and also to show cause why you should not be committed to prison for such default.

Dated this day of 187 .

Registrar of the Court.

	£	s.	d.
Amount of judgment, or order, and costs	10	0	0
Costs of warrant against the goods, if any	0	15	0
Costs of previous judgment-summonses, hearing, and commitments, if any			
	10	15	0

	£	s.	d.
Deduct { Paid into court	1	0	0
{ Amounts which were not required to have been paid before the date of the summons	4	15	0
	5	15	0

Sum payable	5	0	0
Costs of the summons	0	2	3

Amount upon the payment of which no further proceedings will be had until default in payment of next instalment ..	5	2	3
--	---	---	---

40.

Order upon a Judgment-Summons altering Original Order
or Judgment.

"The Debtors Act, 1869."

In the [title of court issuing summons].

No. of plaint.
No. of judgment-summons.

Between A. B., plaintiff,
[Address, description,]
and
C. D., defendant,
[Present address, description, and,
if known, place of employment.]

Whereas the plaintiff obtained a judgment [or order] against the defendant in the county court of holden at on the day of , 187 , for the payment of £ , together with £ for costs, and in payment thereof [or of part thereof] the defendant hath made default:

[or, Whereas the plaintiff obtained a judgment against the defendant in () division of her Majesty's High Court of Justice [or as the case may be] on the day of , for the sum of £ , and there is now due and payable upon the said judgment the sum of]:

And whereas a summons was, at the instance of the plaintiff, duly issued out of this court, by which the defendant was required to appear personally at this court on the day of 187 , to be examined on oath touching the means he had then or had had since the date of the judgment [or order] to pay the said sum, which summons was proved to this court to have been personally and duly served on the defendant:

Acknowledgment of payment
into court.

Date.	£	s.	d.	Received by
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____

It is ordered, that the defendant do pay the amount still due on the said judgment, and the costs of the said summons and its hearing, as stated at the foot of this order, to the registrar of this court, by instalments of £ for every days; the first payment to be made on the day of , 187 .

Given under the seal of the court, this day of , 187 .

Registrar of the Court.
£ s. d.

Amount on judgment or order remaining due
Costs of judgment-summons and its hearing

£

41.

Order of Commitment.

(The figures are inserted ex. gr.)

"The Debtors Act, 1869."

In the [title of court ordering committal].

No. of plaint.
No. of judgment-summons.
No. of order.

Between A. B., plaintiff,
and
C. D., defendant.

To the high bailiff and others the bailiffs of the said court and all peace officers within the jurisdiction of the said court, to the governor or keeper of the [prison used by the court].

Whereas the plaintiff obtained a judgment [or order] against the defendant

in the county court of holden at , on the day of 187 ,
for the payment of 10*l.*, for debt [*or* damages] and costs, and subsequent costs
have been incurred in pursuance thereof amounting to 15*s.* :

And whereas the defendant hath made default in payment of 5*l.*, payable
in pursuance of the said judgment [*or* order] :

And whereas a summons was, at the instance of the plaintiff, duly issued
out of this court, by which the defendant was required to appear personally
at this court on the day , 187 , to be examined on oath touch-
ing the means he had then or had had since the date of the judgment [*or*
order] to satisfy the sum then due and payable in pursuance of the judgment
[*or* order], and to show cause why he should not be committed to prison for
such default, which summons has been proved to this court to have been per-
sonally and duly served on the defendant :

And whereas, at the hearing of the said summons, it has now been proved
to the satisfaction of the court that the defendant now has [*or* has had] since
the date of the judgment [*or* order], the means to pay the sum then due and
payable in pursuance of the judgment [*or* order], and has refused [*or*
neglected], [*or* then refused or neglected] to pay the same, and the defendant
has shown no cause why he should not be committed to prison.

Now, therefore, it is ordered that, for such default as aforesaid, the defendant
shall be committed to prison for days, unless he shall sooner pay the
sum stated below as that upon the payment of which he is to be discharged,
or shall file such affidavit as is mentioned in Order XIX., Rule 20, of the
County Court Rules, 1875.

These are therefore to require you, the said high bailiff, bailiffs, and others,
to take the defendant, and to deliver him to the governor or keeper of the
[*prison used by the court*], and you the said governor or keeper to receive
the defendant, and him safely keep in the said prison for days from the
arrest under this order, or until he shall be sooner discharged by due course of
law.

Given under the seal of this [*insert date of order*] date of
187 .

E. F.,
Registrar of the Court.

	£	s.	d.
Total sum payable at the time of issuing of the judgment- summons	5	2	3
Hearing of summons, and poundage upon this order	0	10	0
	5	12	3
Deduct amount paid into court subsequent to the hearing of the judgment-summons.. .. .	2	0	0
Total sum upon payment of which the prisoner will be discharged	3	12	3

FORMS IN WHICH SPECIAL MATTER NEED NOT BE PRINTED.

[NOTE.—For formal parts of these forms see Nos. 1 to 6.]

42.

Undertaking by next Friend of Infant to be responsible for Defendant's Costs.

I, the undersigned E. F., of _____, being the next friend of A. B., who is an infant, and who is desirous of entering a plaint in this court against C. D. of, &c., hereby undertake to be responsible for the costs of the said C. D., in such action, in manner following; namely, if the said A. B. fail to pay to the said C. D., when and in such manner as the court shall order, all such costs of such action as the court shall direct him to pay to the said C. D., I will forthwith pay the same to the registrar of the court.

Dated this _____ day of _____ 187 .

E. F.

43.

Notice to High Bailiff of Foreign Court of Order against him for Neglect.

Order II.,
Rule 25.

Take notice, that on the application of the above-named plaintiff made this day, it is ordered that within _____ days of the service of this order upon you, you do pay to me for the use of the said plaintiff the sum of £ _____ as compensation for loss of time and expense incurred by him owing to your neglect to return to me the copy summons herein.

Dated this _____ day of _____ 187 .

Registrar.

To the High Bailiff,
County Court.

44.

Undertaking by Solicitor to be responsible for Costs.

[Title of Action.]

Order IV.,
Rule 2.

As solicitor for the above-named plaintiff, I hereby undertake to be personally responsible for any costs which the said plaintiff may be ordered to pay to the said defendant in this action.

Dated this _____ day of _____ 187 .

Solicitor for the plaintiff.

45.

Agreement to give Jurisdiction to a County Court.

19 & 20 Vict.
c. 108, s. 23.

We [*or the respective solicitors of*] A. B., of, &c., and C. D., of, &c., do hereby agree that the County Court of _____, holden at _____, shall have power to try an action to be brought by A. B. against C. D. for _____ under the provisions of sect. 23 of "The County Courts Act, 1856."

Witness our hands this _____ day of _____ 187 .

A. B. [*or* E. F., solicitor for A. B.]
C. D. [*or* G. H., solicitor for C. D.]

46.

Certificate of Deposit.

I do hereby certify that the plaintiff [or defendant] has paid into my hands the sum of £ [here state the proceeding which has rendered the deposit necessary]. 19 & 20 Vict. c. 100, s. 71.

Dated this day of 187 .

Registrar of the Court.

EXAMPLES OF PARTICULARS OF DEMAND.

A.—In an Action for a Debt or a liquidated Money Demand.

Dates.		(Seal.)		
		£	s.	d.
187 .	The plaintiff demands of you payment of this account:—			
13th March.	To an onyx ring.. ..	4	4	0
18th "	To mending watch		18	3
7th April.	To a hair chain	1	17	0
24th June.	To money lent	5	0	0
20th Sept.	To sundry repairs of jewellery.. ..	■	5	0
		15	4	3

B.—In an Action for a running Account of Small Items.

Dates.		(Seal.)		
		£	s.	d.
From	The plaintiff demands of you payment of this account:—			
17th August.	Butchers' meat supplied to you, full particulars entered in your pass-book [or, bills delivered weekly, or, monthly, or, detailed account given to you]	18	6	2
187 , till				
12th Sept.				
187 .				

C.—In an Action on a Bill of Exchange or a Promissory Note.

Dates.		(Seal.)		
		£	s.	d.
187 .	The plaintiff demands of you payment of this bill of exchange:—			
17th June.	Bill drawn by Arthur Briggs for	20	0	0
	indorsed to plaintiff, accepted by you.			
20th Sept.	Due—			
	Interest 6 months		10	0
	Noting and expenses		4	8
		20	14	3

D.C.C.

N

D.—In an Action for Breach of Contract.

Dates.		£	s.	d.
187 . In or about Feb. 2nd Sept.	The plaintiff demands of you these damages:— for non-delivery of a cargo of bricks as per agreement	25	0	0
3rd Oct.	or for breach of warranty on sale of a horse ..	25	0	0

E.—In an Action of Tort.

Dates.		£	s.	d.
187 . 17th August.	The plaintiff demands of you these damages.. for injury caused to his carriage in the Strand by the carelessness of yourself or your servant.	12	0	0
187 . 8th July.	or for an assault committed by you on him.			
187 . 7th March.	or for illegally distraining his goods at [place].			
10th Oct. 187 .	or for illegally arresting him.			
During pre- sent year.	or for obstructing light and air from the windows of his house at [description of house].			
During last six months.	or for diverting, or obstructing, or fouling his watercourse at [place].			
187 . April.	or for negligence as his solicitor in defending, at the Kingston Assizes, the action brought against him by Thomas Brown.			

F.—In an Action of Detinue, claiming Delivery of Specific Article.

		A. No. 45. (Seal.)		
Date.		£	s.	d.
187 . 16th March.	The plaintiff demands of you the delivery of a specific bracelet belonging to him, valued at and detained by you. Special damages caused by their detention ..	15	0	0
		2	0	0
		17	0	0

G.—In an Action of Trover.

		(Seal.)		
Date.		£	s.	d.
187 . 10th Sept.	The plaintiff demands of you these damages, for having converted to your own use the following goods of his:— A table, worth A piano A bed	5 12 8	0 0 10	0 0 0
		20	10	0

H.—In an Action for Services by House Agent giving Credit for Payments and Set-off.

		(Seal.)		
Dates.		£	s.	d.
187 , March.	The plaintiff demands of you payment of this account:—			
	Commission as house agent for selling your house No. 15, Regent Street	57	10	0
Between June 187 , and Aug. 187 .	By sundry payments	35	0	0
	By set-off for bread and flour supplied by you as per bill delivered	8	17	8
	Balance due	13	12	4

I.—In an Action against an Executor charging Wasts of Assets.

Dates.		£	s.	d.
From Christmas, 187 , till May 1871.	The plaintiff demands of you, as executor of John Baker, payment of this medical account due to him from the testator :—[Set out Account in ordinary form.]			
	He states that you have wasted the testator's assets.			
	He therefore demands that his account be paid out of the testator's assets in your hands ; or, if they are not sufficient, out of your own goods.			
		18	0	0

K.—In an Action for recovering Possession of a Tenement when Term has expired or been determined by Notice.

		A. No. 45. (Seal.)		
Dates.		£	s.	d.
187 . 7th Oct.	The plaintiff demands of you:—			
	1. Possession of the two rooms on first floor of No. 14, Brick Court, Haymarket, your interest as tenant of the premises to him having expired [or having been determined by a notice to quit].			
Up to 7th Oct. From 7th Oct. to 17th Nov.	2. Rent of the same premises for eight weeks at 7s. a week	2	16	0
	3. Mesne profits for five weeks and six days ..	2	1	0
	He also states that neither the rent nor the value [or that the rent or the value] of the premises exceeds 50 <i>l.</i> by the year.			
		4	17	0

L.—In an Action for recovering Possession of a Tenement unless Rent in Arrear be paid.

Date.		£	s.	d.
Up to Michaelmas 187 .	The plaintiff states that you are his tenant of No. 14, Brick Court, Haymarket; that your rent is in arrear for [state period not less than one half-year]; and that he is entitled by law to re-enter for its nonpayment. He therefore demands of you possession of the premises, unless you pay him the rent in arrear and the costs He also states that neither the rent nor the value [or that the rent or the value] of the premises exceeds 50 <i>l.</i> by the year.	20	0	0

M.—In an Action of Ejectment.

The plaintiff states that he is entitled to eject all persons from [describe by name, abutments, or otherwise, the place in question].

He therefore demands of you possession of the premises.

He therefore states that neither the rent nor the value [or that the rent or the value] of the premises exceeds by the year.

N.—In an Action by a Creditor to administer the Estate of a deceased Debtor.

Dates.		A. No. 45. (Seal.)		
		£	s.	d.
187 .	The plaintiff demands of you, as administrator of James Smith, payment of this account due to him from the intestate:—			
1st Feb.	Coat, tronsers, and vest	7	10	0
14th Feb.	Repairing coat		7	6
2nd March.	Livery for footman	4	4	0
	Dress tronsers	1	15	0
	Or that the estate of the intestate may be administered under the order of the court.			
	He also states that the estate to which this suit relates does not exceed 500 <i>l.</i> in value.			
		13	16	6

O.—In an Action by a Legatee to administer the Estate of a Testator.

DAVIS.		£	s.	d.
Of will, 15th June 1862.	The plaintiff demands of you, as executor of John Baker, payment of a legacy of due to him under the testator's will.	30	0	0
Of probate, 7th Sept. 187 .	or that the estate of the testator may be administered under the order of the court.			
	He also states that the estate to which this suit relates does not exceed 500 <i>l.</i> in value.			

P.—In an Action by a Beneficiary for Execution of a Trust.**Date.**Of deed,
1868.
1st June.

The plaintiff states that he is beneficially interested in a deed made between [*describe parties shortly*], and of which you are the trustee, and he demands that the trusts, so far as they relate to him, may be executed under the order of the court. He also states that the estate to which the suit relates does not exceed 500*l*.

Q.—In an Action for Foreclosure.**Dates.**1869.
2nd Sept.
up to
187 .
Michaelmas.

The plaintiff demands of you the payment of due from you under a mortgage deed.
with interest
and costs
Or that the mortgage be enforced by foreclosure or sale as the court shall direct.

£	s.	d.
150	0	0
20	0	0
15	0	0
185	0	0

R.—In an Action for Redemption.**Date.**1869.
2nd Sept.

The plaintiff demands of you the redemption of [*describe mortgaged premises*], comprised in a mortgage deed made between him and you, on payment of the principal money, interest, and costs due thereon. He also states that the estate to which this suit relates does not exceed 500*l*. in value.

S.—In a Suit for Specific Performance.**Date.**187 .
7th July.

The plaintiff demands the specific performance by you of an agreement to sell him a house, No. 24, Great Portugal Street. He also states that the estate to which this suit relates does not exceed 500*l*. in value.

T.—In an Action by an Executor to obtain judicial interpretation of a Will.A. No. 45.
(Seal.)**Dates.**Of will,
15th June,
1862.
Of probate,
7th Sept.
187 .

The plaintiff states that you [*or you severally*] claim a legacy of bequeathed by the testator's will "to George Gord, the son of — Gord;"

£	s.	d.
50	0	0

or
that you claim certain plate; *or* books, *or* trinkets, under a legacy bequeathed to you by the testator's will of "household furniture;"

And he demands that so much of the estate of the testator as relates to this legacy may be administered under the order of the court. He also states that the estate to which this proceeding relates does not exceed 500*l*. in value.

U.—*In an Action by a Beneficiary for the appointment by the Court of New Trustees.*
(Seal.)

Date.	
Of deed. 28th July 18 .	The plaintiff states that he is beneficially interested in a deed made between [<i>describe parties shortly</i>]; that all the trustees are dead ; and that no power exists of appointing others except on application to the court. He therefore demands that new trustees may be appointed under the order of the court. He also states that the estate to which this proceeding relates does not exceed 500 <i>l.</i> in value.

V.—*In an Action for Advancement of an Infant.*
(Seal.)

Date.	
18 . 10 Oct.	The plaintiff by his next friend, demands that you, as his trustee under the will [<i>or deed</i>] of [<i>name, address and description</i>], do advance to him 100 <i>l.</i> out of the trust fund for the purpose of paying for his outfit to India, or that the trust be administered under the order of the court.

W.—*In an Action for the Dissolution of Partnership.*
(Seal.)

Date.	
Of partner- ship deed. 18 . 1st May.	The plaintiff demands that an account of the partnership dealings between himself and you be taken; that the affairs of the partnership be wound up ; and that the partnership be dissolved under the order of the court. He also states that the estate to which this suit relates does not exceed 500 <i>l.</i> in value.

X.—*In an Action for Partition.*
(Seal.)

The plaintiff demands the partition of the farm called Knowlands, containing about seven acres, and situate in the parish of Kemsing, in Kent, which he now holds conjointly with you.
He also states that the estate to which this suit relates does not exceed 500*l.* in value.

Y.—*In an Action for Salvage.*
(Seal.)

Date.		£	s.	d.
187 . 14th Oct.	The plaintiff demands of you payment of his claim of for salvage of your ship, the " Maria."	20	0	0

Z.—In an Action for Wages.

		(Seal.)		
Dates.		£.	s.	d.
From 15th Jan. 187 . to 10th Sept. 187 . 12th Jan. 187 .	The plaintiff demands of you payment of his claim of for wages in respect of services rendered on board your ship the "Maria." As per signed agreement.	60	0	0

AA.—In an Action for Damage to Ship by Collision.

		(Seal.)		
Date.		£	s.	d.
187 . 10th Oct.	The plaintiff demands of you these damages . for injury caused to his sloop the "Jane" by collision through the unskilful navigation of your steamboat the "Rapid."	100	0	0

BB. — In an Action for Freight.

		(Seal.)		
Date.		£	s.	d.
187 . Aug.	The plaintiff demands of you for freight in conveying in his ship the "Jane" tons of coals for you from Newcastle to London	25	0	0

CC.—In an Action against a Shipowner for Non-delivery of Cargo.
(Seal.)

		£	s.	d.
187 . Sept.	The plaintiff demands of you these damages.. for not delivering to him as per agreement the cargo of wheat which you undertook to convey from ——— to ———.	115	0	0

DD.—In an Action against a Shipowner for negligent Stowage of Cargo.
A. No. 45.
(Seal.)

		£	s.	d.
187 . Sept.	The plaintiff demands of you these damages.. for negligently stowing on board your ship the "Jane" his skins, which you undertook to convey from Riga to London, and which in consequence of wet stowage were seriously injured.	23	10	0

47.

Notice of Sureties.

Take notice, that the sureties whom I propose as my security in the above cause [*here state the proceeding which has rendered the sureties necessary*] are [*here state the full names and additions of the sureties, whether housekeepers or freeholders, and their residences for the last six months, therein mentioning the county or city, places, streets, and numbers, if any*].

Dated this day of 187 .
To the .

48.

Affidavit of Justification.

I of one of the sureties for the defendant, make oath, and say that I am a housekeeper [*or freeholder, as the case may be*], residing [*describing particularly the county or city, the street or place, and the number of the house, if any*], that I am worth property to the amount of £ [*the amount required by the practice of the court*] over and above what will pay my just debts [*if security in any other action or for any other purpose, add, and every other sum for which I am now security*], that I am not bail or security in any other action or proceeding or for any other person [*or if security in any other action or actions, add, except for C. D., at the suit of E. F., in the court of in the sum of £ for G. H., at the suit of I. K., in the court of in the sum of £ specifying the several actions with the courts in which they are brought and the sums in which he has become bound*]; that this my property to the amount of the said sum of £ [*and if security in any other action, &c., over and above all other sums for which I am now security as aforesaid*], consists of [*here specify the nature and value of the property in respect of which the deponent proposes to become bondsman as follows, stock in trade, in my business of carried on by me at of the value of £ , of good book debts owing to me to the amount of £ , of furniture in my house at of the value of £ , of a freehold [or leasehold] farm of the value of £ situate at occupied by or of a dwelling house of the value of £ situate at occupied by or of other property, particularizing each description of property, with the value thereof*], and that I have for the last six months resided at [*describing the place of such residence, or if he has had more than one residence during that period, state it in the same manner as above directed*].

49.

Bond under "The Summary Procedure on Bills of Exchange Act, 1855."

18 & 19 Vict.
c. 67.

Know all men by these presents, that we A. B. of &c., and C. D. of &c., and E. F. of &c., are jointly and severally held and firmly bound to G. H. of &c., in £ to be paid to the said G. H., or his certain attorney, executors, administrators, or assigns. For which payment to be made we bind ourselves and each and every of us, in the whole, our and each of our heirs, executors, and administrators, jointly and severally, firmly by these presents.

Sealed with our seals, and dated this day of one thousand eight hundred and .

Whereas an action has been brought in the county court of holden at wherein the above-named G. H. is plaintiff, and the above-bounden A. B.

is defendant, on a certain bill of exchange [*or promissory note*] under "The Summary Procedure on Bills of Exchange Act, 1855:"

And whereas leave has been duly given, according to the provisions of the said act, to the said A. B. to defend the said action upon his giving security to be approved by the registrar of the court aforesaid, for the amount claimed in the said action and costs of trial thereof:

And whereas the above-named C. D. and E. F., at the request of the said A. B., have agreed to enter into the above-written obligation for the purposes aforesaid, and the security intended to be hereby given has been approved of by the registrar of the said county court, as appears by his allowance in the margin hereof: Now the condition of this obligation is such, that if the above-bounden A. B., C. D., and E. F., any or either of them, shall pay unto the said G. H., his executors, administrators, or assigns, the amount claimed in the said action, and the costs of the trial thereof, upon judgment being given for the plaintiff, then this obligation shall be void, otherwise shall remain in full force.

I approve of
this bond.
J. K.,
Registrar.
(L.S.)
*This bond re-
quires a stamp.*

A. B. (L.S.)
C. D. (L.S.)
E. F. (L.S.)

Signed, sealed, and delivered by the above-bounden in the presence
of

[NOTE.—If a deposit of money be made the memorandum thereof should follow the terms of the condition of the bond, and will not require a stamp.] 19 & 20 Vict.
c. 108, s. 71.

50.

Particulars of Plaintiff's Demand or Cause of Action in Actions of Contract ordered to be tried in a County Court.

In the county court of holden at .

Between A. B.,

[Address and description,]

and

C. D.,

[Address and description.]

Being an action of contract commenced in her Majesty's High Court of Justice, and sent by order of a judge at chambers under section 7 of "The County Courts Act, 1867," to be tried in this court [*here, where writ not specially endorsed, state the particulars of the plaintiff's demand or cause of action according to the facts, adding*] Above are the particulars of the plaintiff's demand [*or cause of action*]. 30 & 31 Vict.
c. 142, s. 7.

Dated this day of 187 .

A. B., plaintiff,

or

E. F., plaintiff's solicitor.

To the registrar of the court
and to the defendant.

51.

Notice of Trial of Action of Contract ordered to be tried in a County Court.

Being an action of contract commenced in Her Majesty's High Court of Justice, and sent by order of a judge thereof under section 7 of "The County Courts Act, 1867," to be tried in this court. 30 & 31 Vict.
c. 142, s. 7.

Take notice that this action will be tried at a court to be holden on the
day of at o'clock in the forenoon.
Dated this day of 187 .

Registrar of the court.

The plaintiff and defendant.

[To the notice sent to defendant the registrar must annex a copy of the plaintiff's particulars of demand or cause of action where given.]

52.

***Statement of Plaintiff's Cause of Action in Actions of Tort
remitted for Trial in a County Court.***

In the county court of holden at
Between A. B , plaintiff,
[*Address and description,*]
and
C. D., defendant,
[*Address and description.*]

**30 & 31 Vict.
c. 142, s. 10.**

Being an action of tort commenced in her Majesty's High Court of Justice, and remitted by order of a judge thereof under section 10 of "The County Courts Act, 1867," to be tried in this court.

This action is brought :

Malicious prosecution.

A. For that the defendant maliciously and without reasonable or probable cause laid an information before E. F., a justice of the peace for the county of _____ against the plaintiff for having feloniously stolen a bushel of wheat belonging to the defendant, upon which charge the plaintiff was committed to the county gaol at _____, and was there imprisoned two months, and the defendant afterwards maliciously and without reasonable or probable cause caused the plaintiff to be prosecuted, indicted, and tried at the last assizes for the said county upon the said charge, when the plaintiff was acquitted, and the prosecution came to an end, by reason whereof the plaintiff was injured in his person and character, and was put to expense in defending himself against the said charges; and the plaintiff claims 100*l.* damages.

Illegal arrest

B. For that the defendant wrongfully and unlawfully gave the plaintiff into the custody of a policeman, and caused him to be handcuffed, and to be imprisoned in a police station, and thence to be taken in custody to a police office, and there to be further imprisoned, whereby the plaintiff was put to expense in procuring his liberation from such imprisonment and in finding bail for his subsequent appearance before a justice of the peace; and the plaintiff claims 30% damages.

**Illegal dis-
tress.**

C. For that the defendant, under a certain distress for rent due from the plaintiff to him, seized and sold more goods and chattels of the plaintiff both in quantity and value than were reasonably sufficient to satisfy the arrears of rent due, and the costs of the distress; and the plaintiff claims 20l. damages.

Assault.

D. For that the defendant assaulted, beat, and wounded the plaintiff, in consequence whereof the plaintiff suffered much pain, and was confined to his bed, and put to expense in obtaining medical advice and attendance to cure him of the injuries inflicted by such beating and wounding ; and the plaintiff claims £100 damages.

Libel.

E. For that the defendant falsely and maliciously wrote and published of and concerning the plaintiff the words following: "*he is a liar, a blackguard, and a scoundrel*;" and the plaintiff claims £200 damages.

**Libel of
plaintiff in**

F. For that the defendant falsely and maliciously caused to be printed and published of and concerning the plaintiff in the way of his trade as a grocer,

the words following: "*Mr. A. B. sands his sugar and dusts his pepper,*" whereby the plaintiff was injured in his trade, and lost the custom of several persons, particularly X., Y., and Z., who had before dealt at the plaintiff's shop; and the plaintiff claims £50 damages. the way of his trade.

G. For that the defendant falsely and maliciously spoke and published of and concerning the plaintiff the words following: "*A. B. is a thief, and stole Mr. Brown's ducks;*" and the plaintiff claims £30 damages. Slander.

H. For that the defendant falsely and maliciously spoke and published of and concerning the plaintiff, in the way of his business and calling as a ratcatcher, the words following: "*A. B. is a great rogue, and instead of doing his best to kill the rats he encourages the breed, so that he may have more employment from the farmers,*" whereby the plaintiff was injured in his business, and several farmers, particularly X., Y., and Z., who had usually employed him to kill the rats on their farms, ceased to do so; and the plaintiff claims £20 damages. Slander of plaintiff in the way of his calling.

J. For that the defendant debauched and carnally knew M. G., then being the daughter and servant of the plaintiff, whereby the said M. G. became pregnant, and was delivered of a child; and the plaintiff thereby lost her services, and incurred expense in nursing and obtaining medical assistance and attendance for her; and the plaintiff claims £100 damages. Seduction.

Above is the statement of the plaintiff's cause of action.

Dated this day of 187 .

A. B., plaintiff,

or

E. F., plaintiff's solicitor.

To the registrar of the court
and to the defendant.

[*N.B.—The above Forms are only given as examples; and the statement of the plaintiff's cause of action must in all cases be according to the facts, and be as concise as possible.*]

53.

Notice of Trial of Action of Tort remitted for Trial in a County Court.

Being an action of tort commenced in her Majesty's High Court of Justice, and remitted by order of a judge thereof, under section 10, of "The County Courts Act, 1867," to be tried in this court. 30 & 31 Vict. c. 142, s. 10.

Take notice that this action will be tried at a court to be holden on the
day of at o'clock in the forenoon.

[*N.B.—To the notice sent to the defendant the registrar must annex a copy of the statement of the plaintiff's cause of action.*]

54.

Affidavit for Discovery.

I, A. B., the above-named plaintiff [or defendant] make oath and say as follows: [*Here set out in paragraphs the documents, and that the deponent is advised and believes that it is material and necessary for him, in order to support his claim upon the trial, to have such documents produced to him, and that he will derive material advantage and support from their production, and that he is advised and believes that he is entitled to their production, and that he believes that the said documents are in the possession or power of the defendant.*]

55.

Order for Discovery.

Upon reading an affidavit by the plaintiff [*or* defendant], a copy of which is annexed marked A., I do order that the plaintiff [*or* defendant] do within _____ days answer an affidavit, stating what documents he has in his possession or power relating to the matters in dispute in this cause, and what he knows as to the custody they or any or either of them are in, and whether he objects, and if so, on what grounds, to the production of such as are in his possession or power.

And I further order, that the costs of this application and of the discovery shall be costs in the cause.

56.

Affidavit in obedience to Order for Discovery.

I _____ of _____ the above-named plaintiff [*or* defendant] make oath and say,—

1. That the documents hereinafter set forth are to the best of my knowledge and belief the only documents in my possession or power relating to the matters in dispute in this action, and the same are in my possession, viz. :—

A letter from _____ to _____ dated _____

An agreement purporting to be between E. F. and G. H., dated _____

2. I do not object to the production of the said documents, or any or either of them.

[*Or* I object to the production of the said documents [*or if not to all, but to some of them, state which*], on the following grounds, that is to say [*here state the grounds of objection*].]

57.

Interrogatories Affidavit.

We, A. B. _____ of _____ the above-named plaintiff [*or* defendant], and L. M. _____ of _____ solicitor in this cause for the said plaintiff [*or* defendant], make oath, and say, first,

And I the said A. B. for myself say,—

1. That I believe that I shall derive material benefit in this cause from the discovery which I seek by the interrogatories which I require to be delivered herein.

2. That I believe that I have a good cause of [*or* defence to this] action on the merits.

And I the said A. B. say—

3. That the plaintiff [*or* defendant] will derive material benefit by the discovery which he seeks by interrogatories.

4. That I believe that the plaintiff [*or* defendant] has a good cause of [*or* defence to this] action on the merits.

58.

Order for an Oral Examination.

Upon hearing the parties, their attorneys or agents [*or* counsel] on both sides, I do order that the plaintiff [*or* defendant] do attend before the registrar of this court at _____ on the _____ day of _____ 18____, at _____ o'clock

in the noon, to be by him orally examined as to the points mentioned in the paper-writing hereunto annexed, the plaintiff's [*or* defendant's] answers to the interrogatories delivered to him in this action being insufficient in such points. [*Add where any documents are to be produced: And I do further order that the plaintiff [*or* defendant] do produce to the said registrar at the same time and place the following documents [*here describe them shortly*].*]

I further order that the costs of the examination, and of the proceedings herein, as may be taxed by the registrar, shall be paid by [*or shall abide the event, or as otherwise ordered*].

Dated this day of 18 .

59.

Notice of Set-off.

Take notice, that the defendant intends at the hearing of this cause to 9 & 10 Vict. claim a set-off against the plaintiff's demand, the particulars of which set-off c 95, s. 76. are annexed hereto.

Dated this day of 187 .

The defendant [*or* 's solicitor].

To the registrar of the court.

[*The registrar is to annex to this notice the particulars of set-off, as furnished by defendant, sealed with the seal of the court.*]

60.

Notice of Special Defence.

Take notice, that the defendant intends at the hearing of this cause to give 9 & 10 Vict. in evidence, and rely upon the following ground of defence. c. 95, s. 76.

Dated this day of 187 .

The defendant [*or* 's solicitor].

To the registrar of the court.

That the defendant was an infant, within the age of twenty-one years, Infancy. when the supposed claim arose [*or* the supposed contract or agreement was made], and that he was born as he believes at in the county of on the day of .

That the defendant is now [*or*, that she was, at the time when the supposed Coverture. claim arose, *or* the supposed contract or agreement was made], the wife of of . And that she was married to him at in the county of on the day of and that she resides at in the county of .

That the claim for which the defendant is summoned is barred by a Statute Statute of of Limitation. Limitation.

That the defendant is a discharged bankrupt, and obtained his order of Bankruptcy. discharge from the [*here state court*] on the day of .

That the defendant was discharged by resolution of his creditors under Liquidation. s. 125 of "The Bankruptcy Act, 1869," which were duly registered in the London Court of Bankruptcy [*or elsewhere, as the case may be*] on the day of 187 .

Libel or
slander.

That the libel [*or* slander] complained of is true in substance and in fact.

Equitable
defence.
Order IX.
s. 15.

Take notice, that the defendant intends at the hearing of this action to rely as a matter of defence on the statement hereunto annexed.

Statement.

The facts constituting the equitable defence to this action are, as follows.
[*Here set out the facts as concisely as possible, and number the paragraphs as in an affidavit.*]

NOTE.—*Notices of Special Defence, in cases commenced in superior court and sent to the county court for trial under sects. 7 or 10 of 30 & 31 Vict. c. 142, must have, in addition to the usual heading, in cases under sect. 7, the heading of Form 22, and in cases under sect. 10 the heading of Form 24.*

61.

Notice to be given by Defendant under 6 & 7 Vict. c. 96, s. 1, in an Action for Libel or Slander remitted for Trial in a County Court.

30 & 31 Vict.
c. 142, s. 10.

Being an action for libel [*or* slander] commenced in her Majesty's High Court of Justice, and remitted by order of a judge thereof under sect. 10 of "The County Courts Act, 1867," to be tried before this court.

Take notice, that the defendant on the trial of this action will give in evidence in mitigation of damages that he made [*or* offered] an apology to the plaintiff for the libel [*or* slander] complained of before the commencement of the action [*or* as soon after the commencement of the action as he had an opportunity of doing so].

To the registrar of the court
and to the plaintiff.

62.

Notice to be given by Defendant under 6 & 7 Vict. c. 96, s. 2, in an Action for Libel remitted for Trial in a County Court.

30 & 31 Vict.
c. 142, s. 10.

Being an action for libel commenced in her Majesty's Court of at Westminster, and remitted by order of a judge thereof under sect. 10 of "The County Courts Act, 1867," to be tried before this court.

Take notice, that the defendant on the trial of this action will give in evidence and rely upon the following ground of defence; (that is to say,)

That the libel was inserted in the newspaper called or known by the name of without actual malice and without gross negligence, and that before the commencement of the action [*or* as soon after the commencement of the action as he had an opportunity of doing so] the defendant inserted in the said newspaper [*or* offered to publish in any newspaper or periodical publication to be selected by the plaintiff] a full apology for the said libel, and that the defendant has paid into court £ by way of amends for the injury sustained by the plaintiff by the publication of the said libel.

Dated this day of 187 .

C. D., defendant,
or

E. F., defendant's solicitor.

To the registrar of the court
and to the plaintiff.

[N.B.—*If the libel was published in any periodical publication other than a newspaper, alter the notice accordingly.*]

63.

Notice by Plaintiff that Judgment may be signed against individual Members of a Firm.

[Title of Action.]

Take notice, that on the hearing of this action the court will be asked to order judgment against each of you whom I believe to be co-partners in the firm of [*state firm*], and that unless sufficient cause be shown by you or any of you to the contrary at such hearing, judgment will be ordered against you or such of you as do not show sufficient cause to the contrary at the hearing.

Order V.,
Rule 9.

Dated this of 187 .

Plaintiff.

To Mr. C. D., of .
To Mr. E. F., of .
To Mr. G. H., of .

64.

Notice to Plaintiff that Defendant defends on behalf of others.

[Title of Action.]

Take notice, that the above-named defendant has obtained an order for leave to defend the above action on behalf of or for the benefit of [*state names of persons as in order*], as well as on his own behalf. You may, if you think fit, object at the trial to the defendant defending on behalf of all or any of such persons. The affidavit on which the above-mentioned order was made is filed at my office and may be inspected by you.

Order IX.,
Rule 2.

Dated this of 187 .

Registrar.

To the above-named plaintiff.

65.

Notice to Third Party of Defendant's Claim to Contribution, Indemnity, &c.

[Title of Action.]

Take notice, that the above-named defendant has filed a claim, a copy whereof is hereto annexed, whereby he claims [*contribution, indemnity, or, as the case may be*], by you [*insert name of third party*], towards [*or against, or in respect of, as the case may be*], any sum which the above-named [*insert plaintiff's name*] may recover against him in this action.

Order X.,
Rule 1.

And take notice that if you wish to dispute the defendant's claim, you must appear at a court to be holden at on the day of 187 , at the hour of in the noon, to answer said claim.

If you desire the direction of the judge as to the conduct of the action or as to any proceedings or notices therein, you must file in this office a written application for that purpose, and thereupon apply to the judge before trial, and you must also give four days' notice of your intention to make such application to all parties interested.

Dated this of 187 .

Registrar of the court.

To Mr. ,
of .

66.

Notice to Plaintiff of Defendant's Claim against a Third Party.

[Title of Action.]

Order X.,
Rule 1.

Take notice, that the above-named defendant has filed a claim, a copy whereof is hereto annexed, whereby he claims [*contribution, indemnity, or, as the case may be*], by [*state name and address and description of third party*], towards [*or against, or in respect of, as the case may be*], any sum which you may recover against him in this action.

And take notice, that if you desire the direction of the judge as to the conduct of the action, or as to any proceedings or notices therein, you must file in this office a written application for that purpose, and thereupon apply to the judge before trial, and you must also give four days' notice of your intention to make such application to all parties interested. You may also apply to the judge at the hearing to disallow the defendant's claim.

Dated this of 187 .

Registrar of the court.

To the above-named plaintiff.

67.

*Notice to Defendant of Non-sufficiency of Affidavit under Order XI., Rule 5.*Order XI.,
Rule 5.

Take notice, that the affidavit filed by you does not disclose a good defence to this action on the merits thereof, and you must therefore attend the court in pursuance of your summons [*or where the affidavit has accompanied the notice of defence required by a default summons*, upon the day mentioned in the notice sent herewith].

Dated this of 187 .

Registrar of the court.

To the above-named defendant.

68.

Notice to Plaintiff to deposit Sum in Court under Order XI., Rule 5.

[Title of Action.]

Order XI.,
Rule 5.

Take notice, that the above-named defendant (whose residence or place of business is more than twenty miles distant from this court), having filed with me an affidavit disclosing a good defence to this action upon the merits, you are required within two days from the date hereof to deposit in court the sum of £ , to abide the event of this action. And also take notice, that in default of your making such deposit as directed the action will be struck out.

Dated this of 187 .

Registrar of the court.

To the above-named plaintiff.

69.

Notice to Defendant of Deposit under Order XI., Rule 5, having been made, or not having been made.

[Title of Action.]

Take notice that the plaintiff has this day deposited with me the sum of £ , to abide the event of this action. Order XI., Rule 5.

Or, Take notice that the plaintiff has not deposited with me any sum of money to abide the event of this action. The action will be struck out and you need not attend the court in pursuance of your summons.

Dated this of 187 .

Registrar of the court.

To the above-named defendant.

70.

Order fining a Witness for Non-attendance.

Whereas of was duly summoned to appear as a witness in this cause at a court this day holden, and at the time of being so summoned payment [*or a tender of payment*] of his expenses was made according to the scale of allowance settled by the rules of practice of the county courts: 9 & 10 Vict. c. 95, s. 86.

And whereas he has neglected without sufficient cause shown to appear at the court [*or to produce*] [*here describe what he was required by such summons to produce*]: *or* *Whereas being this day present in court, and being required by the court to give evidence in this cause, refused to be sworn, without alleging as a ground for such refusal that he had any conscientious scruples with respect to taking an oath [*or, after being duly sworn, refused to give evidence, or to produce*] [*here describe what he was required and bound to produce*]: It is hereby ordered that the said shall forthwith [*or on the day of*] pay to the registrar of this court a fine of £ for such neglect [*or refusal*].

71.

Warrant of Execution against the Goods of a Witness for a Fine.

Whereas was duly summoned to appear as a witness in this cause at a court holden at on the day of 18 , and at the time of being so summoned, payment [*or a tender of payment*] of his expenses was made, according to the scale of allowance settled by the rules of practice of the county courts; and whereas he neglected, without sufficient cause shown, to appear at such court [*or to produce*] [*here describe what he was required and bound to produce*]: *or* *Whereas being present in court on the day of 187 , and being required by the court to give evidence, refused to be sworn without alleging as a ground for such refusal that he had any conscientious scruples with respect to taking an oath [*or after being duly sworn, refused to give evidence, or to produce, &c.*], it was thereupon ordered by the court that he should forthwith [*or on the day of 18*] pay to the registrar of this court a fine of £ for such neglect [*or refusal*]; and whereas the said sum has not been paid according to the said order, and the judge of this court has ordered it to be levied as hereinafter mentioned, 9 & 10 Vict. c. 95, ss. 86, 87.

* Where witness is present in court, commence form here.

o'clock in the noon, then and there to be examined as a witness on behalf of the said plaintiff [*or* defendant]; and immediately after the said E. F. shall have given his testimony before this court, that you safely conduct him the said E. F. to the prison from which he shall have been brought under this warrant.

74.

Order for changing Venue.

It is ordered, that the venue in the above cause be changed, and that the cause be sent for hearing to the county court of holden at .
To the plaintiff and defendant.

19 & 20 Vict.
c. 108, ss.
20, 22.

75.

Notice by Court to which an Action has been sent, of the Day of Trial.

Take notice, that the above cause has been sent for trial to this court, and that it is appointed to be tried in this court on the day of 187 at the hour of in the noon.
To the plaintiff and defendant.

19 & 20 Vict.
c. 108, ss.
20, 22.

76.

Notice of Objection to Jurisdiction.

Take notice, that under the provisions of sect. 39 of "The County Courts Act, 1856," I object to this action being tried in the county court; and I propose as my sureties [*here state the full names and additions of the sureties, whether housekeepers or freeholders, and their residences for the last six months, therein mentioning the county or city, places, streets and numbers, if any*] [*or*, and I propose to deposit a sum of money in lieu of giving sureties].
Defendant.

19 & 20 Vict.
c. 108, s. 39.

To the registrar of the said court.

77.

Bond where Notice of Objection to Jurisdiction given.

Know all men by these presents, that we, A. B. of, &c., and C. D. of, &c., and E. F. of, &c., are jointly and severally held and firmly bound to G. H. of, &c., in £ to be paid to the said G. H., or his certain attorney, executors, administrators, or assigns. For which payment to be made we bind ourselves and each and every of us, in the whole, our and each of our heirs, executors, and administrators, jointly and severally, firmly by these presents.

19 & 20 Vict.
c. 108, s. 39.

Sealed with our seals, and dated this day of one thousand eight hundred and .

A sum sufficient to cover the amount claimed, and costs of trial in High Court of Justice, not exceeding in the whole 150l.

Whereas an action has been brought in the county court of holden at wherein the above-named G. H. is plaintiff, and the above-bounden A. B. is defendant:

For notice of sureties and affidavit of justification, see Forms 15 and 16.

And whereas the said A. B. has given due notice to the said G. H. of his the said A. B.'s objection to the said action being tried in the said court, as provided by sect. 39 of 19 & 20 Vict. c. 108:

And whereas it is by the same section of the said statute provided, that the party who shall object shall give security, to be approved by the registrar of the court aforesaid, for the amount claimed, and the costs of trial in the High Court of Justice :

High Court
of Justice.
I approve of
this bond.
J. K.,
(L.S.)
Registrar.
This bond
requires a
stamp.

And whereas the above-named C. D. and E. F., at the request of the said A. B., have agreed to enter into the above-written obligation for the purposes aforesaid, and the security intended to be hereby given has been approved of by the registrar of the said county court, as appears by his allowance in the margin hereof: Now the condition of this obligation is such, that if the above-bounden A. B., C. D., and E. F., any or either of them, shall pay unto the said G. H., his executors, administrators, or assigns, the costs of the trial in the High Court of Justice, and the amount for which a verdict may pass against the said A. B., then this obligation shall be void, otherwise shall remain in full force.

A. B. (L.S.)
C. D. (L.S.)
E. F. (L.S.)

Signed, sealed, and delivered by the above-bounden in the presence
of

19 & 20 Vict.
c. 108, s. 71. NOTE.—If a deposit of money be made, the memorandum thereof should follow the terms of the condition of the bond, and will not require a stamp.

78.

Consent that Court shall decide in an Action where Title has incidentally come in question.

19 & 20 Vict.
c. 108, s. 25. We [or the respective solicitors of], the plaintiff and defendant, do hereby, under the provisions of sect. 25 of "The County Courts Act, 1856," consent that this action shall be decided by the judge of this court.
Given under our hands, this day of 187 .
Plaintiff [or 's solicitor].
Defendant [or 's solicitor].

79.

Notice to be sent to both Parties of Trial where Cause sent down by High Court of Justice.

19 & 20 Vict.
c. 108, s. 26. Whereas, under the provision of sect. 26 of "The County Courts Act, 1856," an action commenced in the Court of [name of superior court], wherein A. B. of, &c., is plaintiff, and C. D. of, &c., is defendant, has been ordered by [name of judge of superior court] to be tried in this court:
Take notice, that the said action will be tried in this court on the day
of at the hour of in the noon.
To plaintiff and defendant.

80.

Application for Assessors.

No. of plaint.

In the County Court of holden at
Between Plaintiff
and
Defendant.

Order
XXXII.,
Rule , The plaintiff [or defendant] applies to have this action tried with an assessor [or assessors], and he submits to the judge the name of No. 1, A. B.,

Plaintiff [or defendant].

Judge.

(Signature.)

83.

Notice of Sitting to hear Objections raised by one Party to the Assessors named by the other.

[Title of Action.]

Order
XXXII.,
Rule 9.

Take notice that the judge [or I] will on the day of 187 , at
the hour of in the noon, sit at No. street to hear the objec-
tions made by the plaintiff [or defendant] to the under-mentioned persons
being summoned to act as assessors in this action.
Dated this of 187 .

Registrar of the court.

To the above-named plaintiff and defendant.

84.

Order upon hearing Objection to proposed Assessors.

[Title of Action.]

Order
XXXII.,
Rule .

Upon the hearing of the objections made by the plaintiff [or defendant] to
the under-mentioned persons being summoned to act as assessors in this action
[here insert order].

By the court,

Registrar.

85.

Summons where a Defendant sued by an Assignee has had Notice that the Assignment is disputed by the Assignor.

Order XXI.,
Rule 9.

Whereas the defendant in this action has had notice from you that you dis-
pute the assignment of the subject-matter in dispute between the plaintiff and
defendant in this action [or that you claim the subject-matter in this action];
You are therefore summoned to appear at a court to be holden at on
the day of at the hour of in the noon, when the dis-
pute [or claim] between you and the plaintiff will be determined, and judgment
be given determining the rights and claims of the plaintiff, the defendant, and
yourself.

Dated this day of 187 .

Registrar.

To E. F., of [here insert address
and description of the person to
be summoned.]

86.

Summons where a Defendant sued by an Assignee has had Notice that the Assignment is disputed by the Assignor, and has paid Debt and Costs into Court.

Order XXI.,
Rule 10.

Whereas the defendant has had notice that you dispute the assignment of
the subject-matter in this action.
And whereas he has paid into court the sum of £ being the amount
claimed by the action, and the sum of £ for costs.

This is to give you notice that you must appear at a court to be holden on the day of at the hour of in the noon, when the court will adjudicate.

87.

Order where Assignment is invalid.

No. of plaint .

In the county court of holden at
Between A. B., plaintiff,
C. D., defendant,
and
E. F., made party by summons, dated
the day of .

It is this day adjudged, touching the dispute to the assignment of the subject-matter of this action to the plaintiff, that there is no such assignment as alleged, and that the said E. F. do recover against the plaintiff the said sum of £ for costs, and that the defendant do recover against the plaintiff the sum of £ for costs. Order XXI., Rule 9.

It is further adjudged that the said E. F. do recover against the defendant the sum of £ for debt, and the sum of £ for costs.

It is ordered that the plaintiff do pay the sum of £ , and the sum of £ to the registrar on, &c.

And it is further ordered that the defendant do pay the sum of £ to the registrar, &c.

88.

Order where Assignment is valid.

No. of plaint .

[Heading as in last Form.]

It is this day adjudged touching the dispute to the assignment of the subject-matter of this action to the plaintiff, that the said assignment is good, and that the plaintiff do recover against E. F. the sum of £ for costs; and that the defendant do recover from the said E. F. the sum for costs. Order XXI., Rule 9.

It is further adjudged that the plaintiff do recover against the defendant the sum of £ for debt, and £ for costs.

It is ordered that E. F. do pay the sum of £ and the sum of to the registrar of the court, on the day of .

And it is further ordered that the defendant do pay the sum of £ to the registrar on the day of [or by instalments of for every days, the first instalment to be paid on the day of 18].

89.

Order where Assignment is invalid and Defendant files a Counter Claim against Plaintiff.

[Heading as in Form 87.]

It is this day adjudged touching the dispute to the assignment of the subject-matter of this action to the plaintiff, that there is no such assignment as alleged, and that the counter claim of £ against the plaintiff by the defendant is sustained. Order XXI., Rule 9.

It is adjudged that the assignor do recover against the defendant the sum of £ for debt, together with the sum of £ for costs.

It is further adjudged that the defendant do recover against the plaintiff the sum of £ in respect of his counter claim and the sum £ for costs.

It is ordered that the defendant do pay the sum of £ together with the sum of £ to the registrar on, &c.

It is further ordered that the plaintiff do pay the sum of £ and the sum of £ to the registrar on, &c.

90.

Registrar's Notice of Jury.

9 & 10 Vict.
c. 95, s. 70.

Take notice, that this cause will be tried by a jury, the having demanded a jury therein.

91.

Summons to Jurors.

9 & 10 Vict.
c. 95, s. 72.

In the county court of holden at .
You are hereby summoned to appear and serve as a juror in this court, at the on the day of 187 , at the hour of in the noon, upon the trial of the cause or causes to be then and there tried by jury, and in default of attendance you will be liable to a penalty of five pounds, under sect. 72 of "The County Courts Act, 1846."

Given under the seal of the court, this day of 187 .
To Registrar of the court.
of .

92.

Order fining a Juror for Non-attendance.

9 & 10 Vict.
c. 95, s. 72.

In the county court of holden at .
Whereas was duly summoned to appear and serve this day as a juror in this court, upon the trial of the cause or causes to be tried by jury at this court; and whereas he has neglected, without sufficient cause shown, to appear and serve as a juror at this court: It is hereby ordered, that he shall forthwith [or on the day of] pay to the registrar of this court a fine of £ for such neglect.

93.

Warrant of Execution against the Goods of a Juror for a Fine.

9 & 10 Vict.
c. 95, s. 87.

Whereas was duly summoned to appear and serve as a juror at a court holden on the day of upon the trial of any cause or causes to be then and there tried by jury:

And whereas he neglected, without sufficient cause shown, then to appear and serve as a juror at such court, it was thereupon ordered by the court that he should forthwith [or on the day of] pay to the registrar of this court a fine of £ for such neglect:

And whereas the said sum has not been paid according to the said order, and the judge of this court has ordered it to be levied as hereinafter mentioned; these are therefore to require and order you forthwith to make and levy, by distress and sale of the goods and chattels of the said wheresoever they may be found within the district of this court (excepting the wearing apparel and bedding of him or his family, and the tools and implements of his trade,

if any, to the value of five pounds) the sum stated at the foot of this warrant, being the amount of such fine, and the costs of this execution, and also to seize and take any money or bank notes (whether of the Bank of England or of any other bank), and any cheques, bills of exchange, promissory notes, bonds, specialties, or securities for money belonging to him, which may there be found, or such part or so much thereof as may be sufficient to satisfy this execution, and the costs of making and executing the same, and to pay what you shall have so levied to the registrar of this court, and make return of what you have done under this warrant immediately upon the execution thereof.

[*Conclude as in Warrant against a Witness.*]

94.

Order to adjourn Proceedings.

It is ordered, that the trial of this action be adjourned until the day 19 & 20 Vict.
of 187 , at o'clock in the noon. c. 108, s. 81.

95.

Order appointing Guardian named by Infant Defendant.

Whereas now, at the hearing of this cause, the defendant, being an infant, appears here in court, and names of to act as his guardian, who now assenting to act as such guardian, is hereby appointed to be guardian of the defendant to act on his behalf in this cause.

96.

Order appointing Guardian of Infant Defendant where Defendant does not name a Guardian.

Whereas now at the hearing of this cause, the defendant, being an infant, appears here in court, and does not name a guardian, E. F., of is hereby appointed to be guardian of the defendant to act on his behalf in this cause.

97.

Agreement not to Appeal.

We [*or* the respective solicitors or agents of] the above-named plaintiff and defendant, do hereby, under the provisions of sect. 69 of "The County Courts Act, 1856," agree that the decision of the judge of this court in this action shall be final. 19 & 20 Vict. c. 108, s. 69.

Given under our hands this day of

Plaintiff [*or* 's solicitor].
Defendant [*or* 's solicitor].

98.

Notice of desire to examine Defendant as to certain Debts due to him.

I the above-named plaintiff am desirous, should I succeed in obtaining a judgment against the defendant, of having him examined forthwith after I Order XXIV.

SUPPLEMENT TO DAVIS' COUNTY COURTS.

have obtained such judgment, as to whether or not the following debts are due to him from the following persons ; viz.

E. F. of for goods sold and delivered.
G. H. of for work done.

To the registrar
of the above court.

(Signed) A. B.
Plaintiff.

99.

Order when Garnishee present.

Whereas the plaintiff has obtained a judgment against the defendant for the sum of £ [*here insert the amount of judgment*] :

Upon examination of the defendant and E. F. of it is ordered that all debts due and owing or accruing due from the said E. F. to the above-named defendant shall be attached to answer the said judgment debt.

And it is further ordered, that the said E. F. do pay into court the sum of being the amount of the debt due from him to the above-named defendant [*or being so much of the debt due from him to the above-named defendant as is sufficient to satisfy the said judgment debt*] on the day of .

100.

Summons upon a Garnishee.

[*Heading as in No. 11.*]

Whereas the plaintiff at a court holden at , on the day of 18 , obtained a judgment against C. D. of [*name, address and description*] for the sum of for and costs, which judgment remains unsatisfied. And whereas the plaintiff having filed an affidavit stating that you are indebted to the said C. D., you are hereby summoned to appear at a court holden at on the day of , 18 , at the hour of in the noon, to show cause why an order should not be made upon you for the payment of the amount of the said judgment, or so much thereof as shall equal the amount of the debts due and owing and accruing from you to the said C. D.

And take notice, that from and after the service of the summons upon you all such debts are attached to answer the said judgment, and that if you shall pay the said debts to the said C. D., or otherwise dispose of them you will be liable to be committed for contempt.

And further take notice, that if you shall pay to the registrar of the court the amount of such debts, or so much thereof as will satisfy the judgment debt, you will incur no costs.

Registrar of the court.

To the defendant.

101.

Judgment against Garnishee.

Whereas the plaintiff at a court holden at on the day of 18 , obtained a judgment against C. D. of for the sum of £ for and for costs, and which judgment remains now unsatisfied: And whereas the plaintiff having filed an affidavit stating that the defendant was indebted to the said C. B., the defendant was summoned to show cause why he

should not be ordered to pay the amount of the said judgment or so much thereof as should equal the amount of the debts due and owing and accruing from him to the said C. D.; and the defendant having failed to appear before the court this day [or appeared before the court this day, and having failed to show cause why he should not be ordered to pay such debts or having shown sufficient cause why he should not be ordered to pay such debts]:

It is ordered, that the plaintiff do recover against the defendant the sum of £ [here insert the amount of the judgment debt, or so much thereof as the debts amount to when the same are less than the judgment debt,] and £ for costs, amounting together to the sum of £ [or that the plaintiff do pay the sum of £ for defendant's costs].

It is ordered that the defendant [or plaintiff] do pay the same to the registrar of the court on the day of 18 , [or, where judgment for plaintiff, and the judge so order, by instalments of for every days; the first instalment to be paid on the day of 18 .]

102.

Execution against Garnishee.

Whereas on the day of 18 it was ordered that E. F. should pay into court the sum of £ being the [or so much of the] amount of debts found due from him to C. D. of [here insert address and description] a judgment debtor of A. B. [or as is sufficient to satisfy the judgment of the said A. B.]; and whereas default has been made in payment according to the said order; these are therefore [the same as in ordinary executions].

103.

Certificate of the Result of the Hearing of a Cause sent after Issue joined for Trial to a County Court.

In the county court of holden at .

I hereby certify, that an action commenced in the High Court of Justice 19 & 20 Vict. wherein A. B. is plaintiff and C. D. is defendant, which, under section 26 of c. 108, s. 26. "The County Courts Act, 1856," was ordered by a judge thereof to be tried in this court, has been heard accordingly in this court, on this day, and that the result was as follows:

[State the finding on the several issues joined in the action, or that the plaintiff was nonsuited.]

Dated this day of 18 .

Registrar of the court.

104.

Order to suspend Order of Judgment.

It is ordered, that an order of this court in this action, bearing date the 9 & 10 Vict. day of 187 , be suspended until the day of 187 . c. 98, s. 105.

105.

Order for Costs of the Day where Rule for a Certiorari or Prohibition has not been served.

Whereas a rule [or summons] has been granted by [name of division of High Court of Justice or judge] requiring cause to be shown why a writ of 19 & 20 Vict. c. 108, s. 40.

certiorari [*or prohibition*] should not issue in this cause, and no order has been made by such court [*or judge*] respecting the costs in this court :

And whereas a copy of such rule [*or summons*] has not been served on the plaintiff [*or defendant*] [*or on the registrar*], according to section 40 of "The County Courts Act, 1856" :

And whereas the plaintiff [*or defendant*] has on this day appeared at this court to prosecute [*or defend*] this cause :

It is ordered, that the defendant [*or plaintiff*] do pay the sum of £
for the plaintiff's [*or defendant's*] costs of the day, and it is ordered that the
defendant [*or plaintiff*] do pay the same to the registrar of the court on
the day of 187 .

106.

*Order for Costs of the Day where a Writ of Certiorari or
Prohibition has not been lodged.*

19 & 20 Vict.
c. 108, s. 41.

Whereas a writ of certiorari [*or prohibition*] has been granted in this cause by [*name of division of High Court of Justice or judge*], on the ex parte application of the defendant [*or plaintiff*], who has not lodged it with the registrar of the court [*or has not given notice to the plaintiff* [*or defendant*] that it has issued] two clear days before this day, being the day fixed for hearing this cause :

And whereas the said [*superior court or judge*] has made no order respecting the costs of the cause in this court :

And whereas the plaintiff [*or defendant*] has on this day appeared at this court to prosecute [*or defend*] this cause :

It is ordered, that the defendant [*or plaintiff*] do pay the sum of £ for
the plaintiff's [*or defendant's*] costs of the day : and it is ordered that the
defendant [*or plaintiff*] do pay the same to the registrar of the court on the
day of 187 .

107.

Order for a New Trial.

It is ordered, that the judgment in this case, and all subsequent proceedings thereon, be set aside, and a new trial had between the parties on [*set out the terms or conditions, if any, on which the order is made*].

108.

Order to rescind a former Order.

9 & 10 Vict.
c. 95, s. 100.

It is ordered that the order of this court in this action, bearing date the
day of 18 , be rescinded.

109.

Interpleader Summons to Execution Creditor.

[*Heading as in No. 11.*]

30 & 31 Vict.
c. 142, s. 31.

Whereas [*here insert the name, address, and description of claimant, so far as is then known*] hath made a claim to [certain goods and chattels] [*or*

monies, &c.] taken in execution under process issuing out of this court, at your instance] [*or* certain rent alleged to be due to him]:

You are therefore hereby summoned to appear at a court to be holden at on the day of 18 , at the hour of in the noon, when the said claim will be adjudicated upon, and such order made thereupon as to the judge shall seem fit.

Dated this day of 18 .

Registrar of the court.

To the execution creditor.

NOTE.—*The claimant is called upon to give the particulars of his claim, which you may inspect on application at the office of the registrar of this court, four days before the day of hearing.*

110.

Interpleader Summons to a Claimant setting up a Claim to the Goods or the Proceeds thereof.

[*Name, address, and description of claimant*], you are hereby summoned to appear at a court to be holden at on the day of 18 , at the hour of in the noon, to support a claim made by you to certain goods and chattels [*or* monies, &c.] taken in execution under process issued in this action at the instance of [*the execution creditor*], and in default of your then establishing such claim the said goods and chattels will then be sold [*or* the said monies, &c., paid over] according to the exigency of the said process; and take notice, that you are hereby required, five days before the said day, to deliver to the officer in charge of the said process, or leave at my office, particulars of the goods and chattels which [*or* the proceeds whereof] are claimed by you, and of the grounds of your claim; and in such particulars you shall set forth fully your name, address, and description; and take notice, that in the event of your not giving such particulars as aforesaid your claim will not be heard by the court.

To [*the claimant above-named*].

111.

Interpleader Summons to a Claimant setting up a Claim to Rent in respect of the Premises upon which the Execution was levied.

[*Name, address, and description of claimant*], you are hereby summoned to appear at a court to be holden at on the day of 18 , at the hour of in the noon, to support a claim made by you to certain rent alleged by you to be due to you in respect of and issuing out of certain premises upon which certain goods and chattels were taken in execution under process of this court in this action at the instance of [*the execution creditor*]; and in default of your then establishing such claim the said goods and chattels will then be sold, and the proceeds thereof paid over according to the exigency of the said process [*or*, if such goods and chattels shall have been then sold, then the proceeds of such sale will be paid over according to the exigency of the said process]; and take notice that you are hereby required, five days before the said day, to deliver to the officer in charge of the said process, or leave at my office, particulars of the amount of the rent claimed by you, and of the period for which and of the premises in respect of which you claim such rent, and of the grounds of your claim; and in such particulars you shall set forth fully your name, address, and description; and take notice, that in the event of your not giving such particulars, your claim will not be heard by the court.

To [*the claimant above named*].

112.

Interplcader Summons to an Execution Creditor, and to the High Bailiff where Claimant claims Damages as well as the Goods seized.

Insert residence and description of claimant.

Whereas E. F. of hath made a claim to certain goods and chattels [or monies, &c.] taken in execution under process issuing out of this court at your instance, and hath also claimed from you and from the high bailiff of this court the sum of £ for damages arising out of the said execution:

You and the high bailiff are therefore hereby summoned to appear at a court to be holden at the day of 18 , at the hour of in the noon, when the said claim, both as to the said goods and chattels, and as to the said damages, will be adjudicated upon, and such order made thereupon as to the judge shall seem fit.

To the execution creditor, and to the high bailiff of this court.

NOTE.— *The claimant is called upon to give the particulars of his claim, which you may inspect, on application at the office of the registrar of this court, four days before the day of hearing.*

113.

Interpleader Summons to a Claimant setting up a Claim to Damages, as well to the Goods or the Proceeds thereof.

[Name, address and description of claimant], you are hereby summoned to appear at a court to be holden at on the day of 18 , at the hour of in the noon to support a claim made by you to certain goods and chattels [or monies, &c.] taken in execution under process issued in this action at the instance of [the execution creditor], and also for damages arising out of such execution, and, in default of your then establishing such claim, the said goods and chattels will then be sold [or the said monies paid over], according to the exigency of the said process; and take notice that you are hereby required five days before the said day to deliver to the officer in charge of the said process, or leave at my office, particulars of the goods and chattels which [or the proceeds whereof] are claimed by you, and of the grounds of your claim, and also of the grounds upon which you claim damages, and you must also state in such particulars the amount of the damages you claim, and the party from whom you claim the same, and in such particulars you shall set forth fully your name, address and description; and take notice that in the event of your not giving such particulars as aforesaid your claim will not be heard by the court.

To [the claimant above named].

114.

Order on an Interpleader Summons where the Claim is not established.

Between A. B., plaintiff,
and
C. D., defendant,
and
E. F., claimant.

It is this day adjudged touching the claim of E. F. to certain goods and chattels [or monies, &c.] taken in execution in this action [or to certain rent alleged to be due to him], that the said goods and chattels [or monies, &c.]

or part thereof, to wit, &c., specifying them,] are the property of the execution debtor [or that there is no rent due to the said E. F.]

And it is ordered, that the costs of this proceeding, amounting to be paid by the said E. F. to the registrar of this court on or before the day of for the use of the execution creditor.

115.

Order on an Interpleader Summons where the Claim is established.

It is this day adjudged, touching the claim of E. F. to certain goods and chattels [or monies, &c.] taken in execution in this action [or to certain rent alleged to be due to him], that the said goods and chattels [or monies, &c. or part thereof, to wit, specifying them,] are his property [or that rent to the amount of £ is due to him].

And it is ordered, that the said [execution creditor] do pay to the registrar of this court, for the use of the said E. F., £ for costs, on or before the day of 18 .

116.

Order on an Interpleader Summons where both Goods and Damages are claimed, and the Claim to neither is established.

No. of plaint .

In the county court of holden at

(Seal.) Between A. B., plaintiff,

and

C. D., defendant.

And between E. F., claimant,

and

The execution creditor and the high bailiff of this court respondents.

It is this day adjudged touching the claim of E. F. to certain goods and chattels [or monies, &c.] taken in execution in this action, and for damages arising out of the said execution, and which E. F. claims against [the execution creditor] and the high bailiff of this court, that the said goods and chattels [or monies, &c., or part thereof, describe the part,] are the property of [the execution debtor], and that the said E. F. is not entitled to recover any damages from either [the execution creditor] or the high bailiff of this court:

And it is ordered that the costs of this proceeding, amounting to £ , be paid by the said E. F. to the registrar of this court on or before the day of 187 , as to £ , part thereof, for the use of the execution creditor, and as to £ , the residue thereof, for the use of the high bailiff of this court.

117.

Order on an Interpleader Summons where both Goods and Damages are claimed, and the Claim to both is established.

[Same heading as No. 116.]

It is this day adjudged, touching the claim of E. F. to certain goods and chattels [or monies, &c.] taken in execution in this action, and for damages If the claim for damages be against

the execution creditor as well as against the high bailiff so state it.

arising out of the said execution, and which E. F. claimed against the high bailiff of this court, that the said goods and chattels [*or monies, &c., or part thereof, specifying them*] are the property of E. F., and that E. F. is entitled to recover the sum of £ for damages arising out of the said executions against the high bailiff of this court:

And it is ordered that the high bailiff of this court do pay the said sum of for damages, and the sum of £ for costs, and the execution creditor the sum of £ for costs, to the registrar of this court, for the use of the said E. F., on or before day of 18 .

To the execution creditor and
the high bailiff of this court.

118.

Order on an Interpleader Summons where both Goods and Damages are claimed and the Claim to the Goods is, but that to Damages is not, established.

[*Same heading as No. 116.*]

It is this day adjudged, touching the claim of E. F. to certain goods and chattels [*or monies, &c.*] taken in execution in this action, and for damages arising out of the said execution, and which E. F. claims against the execution creditor, and the high bailiff of this court, that the said goods and chattels [*or monies, &c., or part thereof, specifying them*] are the property of the said E. F., but that the said E. F. is not entitled to recover any damages from either the execution creditor or the high bailiff of this court:

And it is ordered that the execution creditor do pay to the registrar of this court, on or before the day of 18 , the sum of for costs for the use of the said E. F., and that the said E. F. do pay to the registrar of this court, on or before the day of 18 , the sum of £ for costs, for the use of the high bailiff of this court.

To the execution creditor and
to E. F. the claimant.

119

Order on an Interpleader Summons where both Goods and Damages are claimed, and the Claim to the Goods is not, but the Claim to Damages is, established.

[*Same heading as No. 116.*]

This may arise where the bailiff is guilty of some wrongful act in taking property of the execution debtor out of the possession of the claimant.

It is this day adjudged, touching the claim of E. F. to certain goods and chattels [*or monies, &c.*] taken in execution in this action, and for damages arising out of the said execution, and which E. F. claims against the execution creditor and the high bailiff of this court, that the said goods and chattels [*or monies, &c.*] are the property of the execution debtor, and that the said E. F. is entitled to recover £ for damages from the high bailiff of this court, but not any damages from the execution creditor:

And it is ordered that the said E. F. do pay to the registrar of this court, on or before the day of 18 , the sum of £ for costs, for the use of the execution creditor, and that the high bailiff of this court do pay to the registrar of this court, on or before the day of 18 , the sum of £ for costs, for the use of the said E. F.

To E. F. the claimant and
the high bailiff.

Claim of an Execution Creditor for Damages from a High Bailiff.

Execution creditor.

***Order on an Interpleader Summons by Execution Creditor
against a High Bailiff where the Claim to Damages is
established.***

The high bailiff of this court . . . Respondent.

**To the high bailiff
of this court.**

***Order on an Interpleader Summons by an Execution Creditor
against a High Bailiff where the Claim to Damages is not
established.***

P

[*the execution debtor*], that the said the execution creditor is not entitled to recover from the said high bailiff of this court any damages in respect of or in any way arising from the said execution. And it is ordered that the said the execution creditor do on or before the day of 18 pay to the registrar of this court the sum of £ for costs, for the use of the said high bailiff of this court.

To the execution creditor.

123.

Order on Interpleader Summons where both Goods and Damages are claimed and Money is paid into Court in respect of the latter, and the Claim to the Goods is established and the Money paid into Court is found to be sufficient to satisfy the Damages.

[*Same heading as No. 121.*]

It is this day adjudged, touching the claim of E. F. to certain goods and chattels [*or monies, &c.*] taken in execution in this action, and for damages arising out of the said execution, and which E. F. claimed against the high bailiff of this court, and in respect of which damages hath paid into court the sum of £ , that the said goods and chattels [*or monies, &c. or part thereof, specifying them or it*] are the property of E. F., but that the said sum paid into court is sufficient to satisfy all damages arising out of the said execution.

And it is ordered, that the execution creditor do pay to the registrar of this court the sum of £ for costs for the use of E. F., and that E. F. do pay to the registrar of this court the sum of £ for costs for the use of the high bailiff, on or before the day of 18 .

To the execution creditor and to E. F.

124.

Order on an Interpleader Summons where both Goods and Damages are claimed, and Money is paid into Court in respect of the latter, and the Claim to the Goods is established, and the Money paid into Court is adjudged insufficient.

[*Same heading as No. 121.*]

It is this day adjudged, touching the claim of E. F. to certain goods and chattels [*or monies, &c.*] taken in execution in this action, and for damages arising out of the said execution, and which E. F. claims against the high bailiff, and in respect of which damages has paid into court the sum of £ , that the said goods and chattels [*or monies, &c.*] are the property of the said E. F., and that the said sum of £ paid into court is not sufficient to satisfy the damages arising out of the said execution, and that the said E. F. is entitled to recover the further sum of £ for damages from the high bailiff.

And it is ordered that the execution creditor do pay to the registrar of this court, on or before the day of 18 , the sum of £ for costs for the use of the said E. F., and that the high bailiff do pay to the registrar of this court, on or before the last-mentioned day, the said further sum of £ for damages, and also the sum of £ for costs, for the use of the said E. F.

To the execution creditor
and the high bailiff.

125.

Order on an Interpleader Summons by an Execution Creditor against a High Bailiff for Damages, and when the High Bailiff pays Money into Court.

[Same heading as No. 121.]

It is this day adjudged, touching the claim of the execution creditor in this cause against the high bailiff of this court for damages arising out of an execution in this cause, in which process issued from this court at the instance of the said the execution creditor, directing the said high bailiff of this court to levy the sum of of and from the goods and chattels of [the execution debtor], and in respect of which damages the high bailiff hath paid into court the sum of £ , that the sum paid into court is sufficient to satisfy all damages arising out of the said execution [or that the sum paid into court is not sufficient to satisfy the damages arising out of the said execution, and that the said the execution creditor is entitled to recover the further sum of £ for damages from the high bailiff].

And it is ordered that the said , the execution creditor, do pay to the registrar of this court, on or before the day of 18 , the sum of £ for costs for the use of the high bailiff [or that the high bailiff do pay to the registrar of this court, on or before the day of 18 , the said further sum of £ for damages, and also the sum of £ for costs, for the use of the execution creditor.

To the execution creditor.
[or To the high bailiff of this court.]

126.

Warrant of Execution against the Goods of Claimant.

Whereas at a court holden at on the day of 18 , the plaintiff, by the judgment of the said court, recovered against the defendant the sum of for debt [or damages] and for costs:

9 & 10 Vict.
c. 95 s. 118.

And whereas the defendant, by an order of the court, was ordered to pay the same to the registrar of the court:

And whereas default having been made in payment according to the said order, an execution issued against the goods of the defendant, under which certain goods and chattels were seized, in respect of which E. F. of, &c. made claim, and which claim was heard and decided upon at a court held at on the day of 18 , and it was adjudged that the goods so seized under the said execution were the property of the defendant [or that certain rent alleged by the said E. F. of, &c. to be due to him was not so due]:

And it was ordered that the costs of that proceeding, amounting to the sum of £ should be paid by the claimant to the registrar of the said court, on or before the day of 18 :

And whereas default has been made in payment according to the said last-mentioned order:

These are therefore to require and order you forthwith to make and levy by distress and sale of the goods and chattels of the said claimant wheresoever they may be found within the district of this court (excepting the wearing apparel and bedding of the said claimant or his family, and the tools and implements of his trade, if any, to the value of five pounds), the sum stated at the foot of this warrant, being the amount due to the plaintiff under the said order, including the costs of this execution, and also to seize and take any money or bank notes (whether of the Bank of England or of any other bank), and any cheques, bills of exchange, promissory notes, bonds, specialties,

or securities for money of the claimant which may there be found, or such part or so much thereof as may be sufficient to satisfy this execution, and the costs of making and executing the same, and to pay what you shall have so levied to the registrar of the court, and make return of what you have done under this warrant immediately upon the execution thereof.

Given under the seal of the court this day of 18 .

By the court.

Registrar of the court.

To the high bailiff of the said court, and
others the bailiffs thereof.

	<i>£.</i>	<i>s.</i>	<i>d.</i>
Costs adjudged			
Poundage for issuing this warrant			
Total amount to be levied			

NOTICE.—The goods and chattels are not to be sold until after the end of five days next following the day on which they were seized, unless they be of a perishable nature, or at the request of the said claimant.

19 & 20 Vict.
c. 109, s. 48.

Application was made to the registrar for this warrant at _____ minutes
past the hour of _____ in the _____ noon of the _____ day of _____ 18 _____.

127.

Bond where a Plaintiff is Appellant.

A sum sufficient to cover the costs of appeal, say 20%, being double the estimated amount.

For notice
of surrenders
and affidavits
of justification,
see forms
and .

Know all men by these presents that we, A. B. of, &c., and C. D. of, &c., and E. F. of, &c., are jointly and severally held and firmly bound to G. H. of &c., in £ , to be paid to the said G. H., or his certain attorney, executors, administrators or assigns. For which payment to be made we bind ourselves, and each and every of us, in the whole, our and each of our heirs, executors and administrators, jointly and severally, firmly by these presents.

Sealed with our seals, and dated this day of one thousand eight hundred and .

Whereas an action is now depending in the county court of holden at wherein the above-bounden A. B. is plaintiff and the above-named G. H. is defendant :

And whereas the said action came on to be tried in the said court on the day of _____ when a judgment was given for the said G. H. :

And whereas the said A. B., being dissatisfied with such judgment, gave due notice to the said G. H. of his the said A. B.'s intention to appeal from the same to her Majesty's High Court of Justice, according to the statute in such case made and provided :

And whereas it is thereby provided that the party who shall appeal as aforesaid shall give security, to be approved by the registrar of the court aforesaid, for the costs of the appeal, whatever be the event thereof :

And whereas the above-named C. D. and E. F., at the request of the said A. B., have agreed to enter into the above-written obligation for the purposes aforesaid, and the security intended to be hereby given has been approved of by the registrar of the said county court, as appears by his allowance in the margin hereof : Now the condition of this obligation is such, that if the above-bounded A. B., C. D., and E. F., any or either of them, shall pay unto the said G. H., his executors, administrators or assigns, the costs of the said

**I approve of
this bond.**

**J. H.,
Registrar.**

(L.A.)
This bond re-
quires a
stamp.

appeal, as the said High Court shall order, then this obligation shall be void, otherwise shall remain in full force.

A. B. (L.S.)
C. D. (L.S.)
E. F. (L.S.)
in the presence

Signed, sealed and delivered by the above-bounden
of .

NOTE.—*If a deposit of money be made, the memorandum thereof should follow the terms of the condition of the bond, and will not require a stamp.* 19 & 20 Vict. c. 108, s. 71.

128.

Bond where Defendant is Appellant.

Know all men by these presents that we, A. B. of, &c., and C. D. of, &c., and E. F. of, &c., are jointly and severally held and firmly bound to G. H. of, &c. in £ to be paid to the said G. H., or his certain solicitor, executors, administrators, or assigns. For which payment to be made we bind ourselves, and each and every of us, in the whole, our and each of our heirs, executors, and administrators, jointly and severally, firmly by these presents.

A sum sufficient to cover the costs of appeal, say 20*l.*, being double the estimated amount, and also double the amount of judgment.

Sealed with our seals, and dated this day of one thousand eight hundred and

Whereas an action is now depending in the county court of holden at wherein the above-named G. H. is plaintiff, and the above-bounden A. B. is defendant :

And whereas the said action came on to be tried in the said court on the day of last, when a judgment was given for the said G. H. in the sum of £ :

And whereas the said A. B., being dissatisfied with such judgment, gave due notice to the said G. H. of his the said A. B.'s intention to appeal from the same to her Majesty's High Court of Justice, according to the statute in such case made and provided :

And whereas it is thereby provided that the party who shall appeal as aforesaid shall give security, to be approved by the registrar of the court aforesaid, for the costs of the appeal, whatever be the event thereof, and also for the amount of the judgment if such party be the defendant, and the appeal be dismissed :

This bond requires a stamp.

And whereas the above-named C. D. and E. F., at the request of the said A. B., have agreed to enter into the above-written obligation, for the purposes aforesaid, and the security intended to be hereby given has been approved of by the registrar of the said county court, as appears by his allowance in the margin hereof : Now the condition of this obligation is such, that if the above-bounden A. B., C. D., and E. F., any or either of them, shall pay unto the said G. H., his executors, administrators, or assigns, the costs of the said appeal, as the said High Court shall order (and shall also in case the said appeal shall be dismissed, pay to the said G. H., his executors, administrators, or assigns, the said sum of [amount of the judgment (a)],) then this obligation shall be void, otherwise shall remain in full force.

I approve of this bond.
I. K.,
Registrar
(L.S.)

(a) To be omitted, if amount previously paid into court.

A. B. (L.S.)
C. D. (L.S.)
E. F. (L.S.)

Signed, sealed and delivered by the above-bounden
of .

NOTE.—*If a deposit of money be made, the memorandum thereof should follow the terms of the condition of the bond, and will not require a stamp.* 19 & 20 Vict. c. 108, s. 71.

129.

Case on Appeal.

13 & 14 Vict.
c. 61, s. 8.

In the county court of _____, holden at _____.
On appeal to the court of _____

Between A. B., plaintiff,
and
C. D., defendant.

This is an action [*here state the cause of action and the facts*].

The question for the opinion of the court of _____ is :—

First. [*Here state the question for the opinion of the court.*]

[Signature of judge.]

130.

*Admission of Claim or part of Claim under Sect. 8 of
“ The County Courts Act, 1850.”*

13 & 14 Vict.
c. 61, s. 8.

I, the defendant, do hereby confess and admit that the sum of £ _____ the
amount claimed [or the sum of £ _____, being part of the amount claimed
by the plaintiff in this action] is due to him from me [and that I will pay the
same by instalments of _____].

Dated this _____ day of _____ 187 .

Signed in the presence of _____.

This paper marked A. is the statement referred to in the annexed affidavit.

131.

*Affidavit of Signature to Admission, Sect. 8 of “ The County
Courts Act, 1850.”*

13 & 14 Vict.
c. 61, s. 8.

I, _____ of _____ gentleman, solicitor of her Majesty's Supreme Court of
Judicature, make oath and say, that I was present on the _____ day of _____,
one thousand eight hundred and seventy _____, and did see the above-named
defendant sign the statement hereunto annexed, marked with the letter A.,
and that the name set to the said statement is in the handwriting of the
defendant, and that the name set to the said statement as the witness attesting
the same is in my handwriting.

132.

*Notice to Plaintiff of Admission of Claim under Sect. 8 of
13 & 14 Vict. c. 61.*

13 & 14 Vict.
c. 61, s. 8.

I do hereby give you notice, that the defendant has filed a statement con-
fessing and admitting the amount claimed by you [and proposing to pay the
same by instalments of _____], and that it will not be necessary for you to
attend on the day of hearing [unless you object to receive the same by instal-
ments as proposed,] but judgment will not be entered unless you shall pay to
the registrar on or before such day the sum of _____ being the fee for the
judgment, or shall remit the said sum to the registrar by post office order or
otherwise.

19 & 20 Vict.
c. 108, s. 78.

133.

Notice to Plaintiff of Admission of Part of Claim under Sect. 8 of the 13 & 14 Vict. c. 61.

I do hereby give you notice, that the defendant has filed a statement confessing and admitting £ , part of the amount claimed by you [and proposing to pay the same by instalments of]. 13 & 14 Vict. c. 61, s. 8.

If you consent to accept the amount so admitted [and to the mode of payment by instalments as proposed], it will not be necessary for you to attend on the day of hearing ; but judgment will not be entered unless you shall pay to the registrar on or before such day the sum of being the fee for the judgment, or shall remit the said sum to the registrar by post office order, or otherwise. 19 & 20 Vict. c. 108, s. 78.

If, however, you do not consent to accept the sum so admitted, in satisfaction of your claim, you must be prepared to prove the same.

134.

Admission under Sect. 9 of 13 & 14 Vict. c. 61.

We, the plaintiff and defendant, do hereby agree that the amount of the debt or demand due from the defendant to the plaintiff is £ and that the same, with £ for the plaintiff's costs, and £ the court fees, shall be paid to the registrar of the court at his office, in manner following, viz.— 13 & 14 Vict. c. 61, s. 9.

Dated this day of 187 .

} Signatures of plaintiff and defendant.

Signed in the presence of .

This paper marked A. is the statement referred to in the annexed affidavit.

135.

Affidavit of Signature under Sect. 9 of 13 & 14 Vict. c. 61.

I, of gentleman, solicitor of her Majesty's Supreme Court of Judicature, make oath and say, that I was present on the day of one thousand eight hundred and seventy , and did see the plaintiff and defendant respectively sign the statement hereunto annexed, marked with the letter A., and that the name set to the said statement is in the handwriting of the plaintiff, and that the name set to the said statement is in the handwriting of the defendant, and that the name set to the said statement as the witness attesting the same is in my handwriting. 13 & 14 Vict. c. 61, s. 9.

136.

Notice to Defendant where any Change of Plaintiff.

Whereas A. B., at a court holden at on the day of 18 , Order XV., obtained a judgment against you for the sum of £ for and costs, r. 5. which judgment now remains unsatisfied: And whereas the said A. B. has

since died [*or, as the case may be*], and E. F. of [*address and description*] is his executor [*or state other representative character*], this is to give you notice that the name of the said E. F. has been substituted as plaintiff for that of the original plaintiff, and that he is at liberty therefore to take the same proceedings on the judgment that the original plaintiff was entitled to take.

Due on judgment £ s. d.
 .. : :
To the defendant.

[*N.B.—Where the judgment in the original cause was for the defendant, and he has died, or as the case may be, the above form must be altered accordingly.*]

137.

Summons in Nature of Scire Facias where any change of Defendant.

Order XV.,
r. 7.

Whereas the plaintiff, at a court holden at on the day of
18 , obtained a judgment against C. D. of [*name, address, and description of C. D.*], for the sum of £ for and costs, which judgment now remains unsatisfied: And whereas the said C. D. has since died [*or state cause of revival being necessary*] and you are his executor [*or state other representative character*] you are hereby summoned to appear at a court to be holden at on the day of 18 , at the hour of in the noon, to show cause why judgment should not be entered up against you, at the suit of the plaintiff, on the judgment so obtained, and why execution should not issue thereon.

Due on judgment £ s. d.
 .. : :
To the defendant.

[*N.B.—Where the judgment in the original cause was for the defendant, the above form must be altered accordingly.*]

138.

Judgment on Scire Facias on Change of Defendant.

Whereas the plaintiff, at a court holden at on the day of
18 , obtained a judgment against C. D. for the sum of £ for and costs, and which judgment now remains unsatisfied: And whereas the said C. D. has since died [*or state other circumstances requiring revival of judgment*], and the defendant is his executor [*or state other representative character*].

[*Conclude according to the rules and forms as to executors and the defence made.*]

Due on judgment £ s. d.
 .. : :

[*N.B.—Where the judgment in the original cause was for the defendant the above form must be altered accordingly.*]

Judgment against an Executor who has wasted Assets.

Wherefore, it is ordered, that if the defendant shall make default in the payment of the said sum, the same shall be levied by distress and sale of the goods and chattels which were of the said deceased, and which came to the hands of the defendant as executor [or administrator] if the defendant has so much thereof in his hands to be administered, and if he has not, then that the said sums shall be levied of the proper goods and chattels of the defendant.

And the defendant having admitted his representative character, but denied the plaintiff's demand, and the plaintiff having proved the same, it is further ordered, that if the defendant shall make default in payment of the said sums, the same shall be levied as follows: The sum of £ [the debt or damage and costs] of the goods and chattels which were of the said deceased, and which came to the hands of the defendant as executor [or administrator], if the defendant has so much thereof in his hands to be administered; and if he has not, then that the sum of £ [the costs] be levied upon the proper goods of the defendant.

Upon hearing this cause at a court this day holden, it is adjudged that the plaintiff do recover against the defendant the sum of £ for r. 6.
and £ for costs:

And it is ordered that the defendant do pay the same to the registrar of this court, on or before the day of 18 .

And the defendant having admitted his representative character, but denied the plaintiff's demand, and having also alleged a total [*or partial*] administration of the goods of the said deceased, which came to the hands of the defendant as executor [*or administrator*] to be administered, it appears to the court that the plaintiff has proved to the court his demand, and also that the defendant has proved the administration alleged:

Wherefore it is ordered that in default of such payment the sum of £ being the costs incurred by the plaintiff in proving his demand, shall be levied on the goods and chattels which were of the said deceased, and which came to the hands of the defendant as executor [*or administrator*], if the defendant has so much thereof in his hands, and if he has not then that it shall be levied of the proper goods and chattels of the defendant, and as to the sum of £ the plaintiff's demand, that it be levied of the goods and chattels of the said deceased which hereafter shall come to the hands of the defendant as executor [*or administrator*] as aforesaid to be administered.

And it is further ordered, that the plaintiff do pay to the registrar of the court, on or before the day of 18 , the sum of £ being the costs incurred by the defendant in proving the administration alleged.

[*N.B.—If the defendant is shown to have some assets, the judgment must be for that amount de bonis testatoris, and for the residue quando acciderint.*]

142.

Judgment against Executor or Administrator where the Defendant admits his Representative Character, but denies the Demand, and alleges total or partial Administration of Assets, and the Plaintiff proves his Demand, and the Defendant does not prove the Administration.

Order XXV.,
r. 7.

Upon hearing this cause at a court this day holden, it is adjudged that the plaintiff do recover against the defendant the sum of £ for and £ for costs:

And it is ordered, that the defendant do pay the same to the registrar of this court on or before the day of 18 .

And the defendant having admitted his representative character, but denied the plaintiff's demand, and having also alleged a total [*or partial*] administration of the goods of the said deceased, which came to the hands of the defendant as executor [*or administrator*] to be administered, it appears to the court that the plaintiff has proved to the court his demand and also that the defendant has not proved the administration alleged.

And it is further ordered, that if the defendant shall make default in payment of the said sum, the same shall be levied as follows: The sum of £ [*debt and costs*] of the goods and chattels which were of the said deceased, and which came to the defendant as aforesaid, if the defendant has so much thereof in his hands to be administered; and if he has not, then that the residue of the sum of £ [*debt*] be levied of the goods and chattels of the said deceased which hereafter shall come to the hands of the defendant as executor [*or administrator*] as aforesaid to be administered; and that the sum of £ [*the costs*] be levied upon the proper goods of the defendant.

143.

Judgment against an Executor or Administrator who admits his Representative Character and the Plaintiff's Demand, but alleges a total or partial Administration of Assets, and proves the Administration.

Upon hearing this cause at a court this day holden, it is adjudged that the plaintiff do recover against the defendant the sum of £ for , and it is ordered, that the defendant do pay the same to the registrar of this court on or before the day of 18 . Order XXV.,
r. 8.

And the defendant having admitted his representative character and also the plaintiff's demand, and having alleged a total [*or partial*] administration of the goods of the said deceased, which came to the hands of the defendant as executor [*or administrator*] to be administered, it appears to the court that the defendant has proved to the court the administration alleged.

Wherefore it is ordered, that in default of such payment the said sum of £ shall be levied of the goods and chattels of the said deceased which hereafter shall come to the hands of the defendant as executor [*or administrator*] as aforesaid to be administered.

And it is further ordered, that the plaintiff do pay to the registrar of this court, on or before the day of 18 , the sum of £ being the cost incurred by the defendant in proving the administration alleged.

144.

Judgment against an Executor or Administrator who admits his Representative Character and the Plaintiff's Demand, but alleges a total or partial Administration of Assets, and does not prove the Administration.

Upon hearing this cause at a court this day holden, it is adjudged that the plaintiff do recover against the defendant the sum of £ for . Order XXV.,
r. 9.

And it is ordered, that the defendant do pay the same to the registrar of this court at on or before the day of 18 .

And the defendant having admitted his representative character, and also the plaintiff's demand, and having alleged a total [*or partial*] administration of the goods of the said deceased which came to the hands of the defendant as executor [*or administrator*] to be administered, it appears to the court that the defendant has not proved to the court the administration alleged.

And it is further ordered, that if the defendant shall make default in payment of the said sum, the same shall be levied as follows: The sum of £ [*debt and costs*] of the goods and chattels which were of the said deceased, and which came to the defendant as aforesaid, if the defendant has so much thereof in his hands to be administered; and if he has not, then that the residue of the sum of £ [*debt*] be levied of the goods and chattels of the said deceased, which hereafter shall come to the hands of the defendant as executor [*or administrator*] as aforesaid to be administered; and that the sum of £ [*the costs*] be levied upon the proper goods of the defendant.

145.

Summons to an Executor of Plaintiff's Intention to apply to the Court where Assets have come to Defendant's Hands since Judgment.

No. of plaint.

In the county court of holden at .
(Seal.)

Between A. B., plaintiff.

(Address.)

(Description.)

and

C. D., executor [or administrator] of
deceased, defendant.

(Address.)

(Description.)

Order XXV.,
r. 10.

The plaintiff having learnt that property of the deceased has come to your (the defendant's) hands as executor [or administrator] since the judgment herein to be administered [and that you have withholden and wasted the same], intends to apply to the court to be holden on the day of 187 , at the hour of in the noon, for an order that the debt [or damages] and costs shall be levied of the goods and chattels of the said deceased, if you have so much thereof to be administered [and that if you have not, then that it shall levied of your proper goods and chattels], and that the costs be levied of your proper goods and chattels.

You are therefore hereby summoned to appear at the said court at the time and place aforesaid, to answer touching the matters aforesaid.

To the executor or administrator
of the deceased.

146.

Warrant of Execution against the Goods of a Testator.

Whereas at a court holden at on the day of 187 , the plaintiff obtained a judgment against the defendant, as executor [or administrator] of the said deceased, for the sum of for due and owing to the plaintiff by the said deceased in his lifetime, and the sum of for costs of suit :

And thereupon it was ordered by the court, that the defendant should pay the same to the registrar of the court, on or before the day of 18 [or by instalments of for every days]:

And whereas default has been made in payment according to the said order:

These are therefore to require and order you forthwith to make and levy by distress and sale of the goods and chattels which were the property of the said deceased in his lifetime, in the hands of the defendant to be administered wheresoever they may be found within the district of this court (excepting the wearing apparel and bedding of him or his family, and the tools and implements of his trade, if any, to the value of five pounds), the sum stated at the foot of this warrant, being the amount due to the plaintiff under the said order, including the costs of this execution, and also to seize and take any money or bank notes (whether of the Bank of England or of any other bank), and any cheques, bills of exchange, promissory notes, bonds, specialties, or securities for money, which were the property of the said deceased in his lifetime, which may there be found, or such part or so much thereof as may be sufficient to satisfy this execution, and the costs of making and executing the same, if the defendant hath so much thereof in his hands to be administered; and if he hath not so much thereof in his hands to be administered, then that you make and

levy of the proper goods and chattels, money or bank notes (whether of the Bank of England or of any other bank), and any cheques, bills of exchange, promissory notes, bonds, specialties, or securities for money of the defendant, the sum of for the costs and charges first above mentioned, and the costs of this execution and of levying the same, and to pay what you shall have so levied to the registrar of this court, and make return of what you have done under this warrant immediately upon the execution thereof.

Given under the seal of the court this day of 18 .
By the court,

Registrar of the court.

To the high bailiff of the said court,
and others the bailiffs thereof.

								£	s.	d.
Debt or damages adjudged			
Costs			
<hr/>										
Paid into court			
<hr/>										
Remaining due			
Poundage for issuing this warrant						
<hr/>										
Total amount to be levied			

NOTICE.—The goods and chattels are not to be sold until after the end of five days next following the day on which they were seized, unless they be of a perishable nature, or at the request of the defendant.

Application was made to the registrar for this warrant at minutes past 19 & 20 Vict.
the hour of in the noon of the day of 187 . c. 108, s. 46.

(Warrants of execution upon the judgments given in pages 211 to 213 may be drawn from this form, altered accordingly from those forms.)

147.

Judgment against an Executor on a Devastavit since Judgment.

Upon hearing the plaintiff's application in this cause at a court this day holden, it is adjudged that property of deceased has come to the hands of the defendant, as his executor [or administrator] since the judgment recovered herein, to be administered, and that the defendant has wasted the same property, whereby the judgment recovered herein remains unsatisfied. It is therefore ordered, that the defendant do pay the sum of £ recovered by [or remaining due upon] the judgment, together with the sum of £ the costs of this order, to the registrar of this court on or before [as the case may be].

And it is further adjudged, that if the defendant make default in payment thereof an execution shall issue to make and levy the above-mentioned sums of the goods and chattels of the said deceased, if the defendant has so much thereof in his hands to be administered, and if he has not, then to be made and levied of the proper goods and chattels of the defendant.

148.

Order of Reference.

By the consent of the plaintiff and defendant, it is ordered that all matters 9 & 10 Vict.
in difference in this cause [and all other matters within the jurisdiction of c. 95, s. 77.

this court, in difference between the said parties] be referred to of whose award, to be made or given on or before the day of 18 shall be entered as the judgment in this cause; and it is further ordered, that the time for making or giving such award may be from time to time enlarged by the judge of the court, in his discretion, for such time as he shall, by indorsement to be by him made on this order, direct; and that the said award, when made or given, may be referred back again to the said arbitrator at the like discretion of the said judge without the further consent of the said parties, and in case either of the said parties shall neglect or refuse to attend any appointment to be made by the said arbitrator for proceeding under this order, after two days' notice thereof in writing shall have been given to him by serving the same personally or by leaving it at his last or usual place of abode, the said arbitrator shall be at liberty to proceed *ex parte* on the matters of the said reference, and his certificate shall be as valid as if both the said parties had duly attended before him. And it is further ordered, that the costs of the said reference shall be in the discretion of the arbitrator, and that the costs of the action shall abide the event; and it is lastly ordered, that the submission to arbitration shall not be revocable by either party.

149.

Summons to a Tenant or other Person holding over.

[Same heading as to an ordinary summons.]

19 & 20 Vict.
c. 108, ss.
50, 51.

(a) [Issued "by leave of the court," or "by leave of the registrar."]

You are hereby summoned to appear at a county court to be holden at on the day of 18, at the hour of in the noon, to answer the plaintiff, wherefore you neglect or refuse to deliver up to him possession of a certain [messuage, with appurtenances, or part of a house, &c., or, as the case may be,] situate at

(a) Insert this when necessary.

And take notice, that the plaintiff claims of you for rent [or mesne profits] [or for rent and mesne profits] the sum of for a period from the day of 18, to the day of 18.

And further take notice, if you do not appear at the said court, and show cause why you do not deliver up possession as aforesaid, the judge of the said court may order that possession of the said premises be given by you to the plaintiff forthwith, or on or before such day as the judge shall name, and that if such order be made and be not obeyed, a warrant may issue to give possession to the plaintiff.

Dated the day of 18.

Registrar of the court.

To the defendant.

	£	s.	d.
Costs of this summons	:	:	:
Claim for.. .. .	:	:	:

At bottom of summons.

TAKE NOTICE.—If the plaintiff in this action be not your immediate landlord, YOU MUST, upon your being served with this summons, or if this summons shall come to your KNOWLEDGE, forthwith GIVE NOTICE thereof to your IMMEDIATE LANDLORD, and if you do NOT give such notice you will be liable, under sect. 53 of "The County Courts Act, 1856," 19 & 20 Vict. c. 108, to forfeit to your immediate landlord THREE YEARS' RACKRENT of the premises held by you of him, in respect of which the summons shall have issued.

150.

Summons for Recovery of a Tenement.

You are hereby summoned to appear at a court to be holden at on 19 & 20 Vict.
the day of 18 , at the hour of in the noon, to answer c. 108, s. 52.
the plaintiff why possession of a certain situate at should not be
given up to the plaintiff, by reason of the rent payable in respect thereof by
you being half a year in arrear, and the plaintiff having right by law to re-enter
for the nonpayment thereof.

If you shall pay to the registrar the rent in arrear, and the costs of this
action, as stated at the foot of the summons, five clear days before the day you
are required to appear to this summons, this action will cease.

And take notice, that if you do not pay such rent in arrear and costs, or
appear at the said court, and show cause why possession of the said
should not be recovered against you, you may be ordered by the court to give
possession of such premises to the plaintiff, and that if such order be not
obeyed a warrant may issue to give possession to the plaintiff.

Dated this day of 18 .

Registrar of this court.

£ s. d.

Costs of this summons : :

At bottom of summons.

TAKE NOTICE.—If the plaintiff in this action be not your immediate land-
lord, YOU MUST, upon being served with this summons, or if this summons
shall come to your KNOWLEDGE, forthwith GIVE NOTICE thereof to your
IMMEDIATE LANDLORD, and if you do NOT give such NOTICE you will be
liable, under sect. 58 of "The County Courts Act, 1856," 19 & 20 Vict. c. 108, to
forfeit to your immediate landlord THREE YEARS' RACKRENT of the premises
held by you of him, in respect of which the summons shall have issued.

151.

Order for Recovery of Tenement.

Upon the hearing of this cause, at a court holden this day, it is ordered, 19 & 20 Vict.
that the defendant to give to the plaintiff possession of a certain house [or c. 108, ss.
messuage with appurtenances, or part of certain house, or as the case may 50—52.
be], situate at forthwith [or on the day of], and it is
adjudged that the plaintiff do recover against the defendant the sum of
£ for rent [or mesne profits] [or for rent and mesne profits] and £
costs.

And it is ordered, that the defendant do pay to the registrar of the court
the sum [or sums] above mentioned on or before the day of 18 .
To the defendant.

TAKE NOTICE.—That if you do not give such possession, a warrant may
issue requiring the bailiff of the court to give possession of the said
to the plaintiff, and to levy the sum above mentioned, together with further
costs.

152.

Warrant for giving Possession of Tenement.

Whereas at a court holden at on the day of 18 it was 19 & 20 Vict.
ordered by the court, that the defendant should give the plaintiff possession of c. 108, ss.
a certain [as in summons] situate at [and that the plaintiff should 50—52.
recover against the defendant] the sum of £ for rent [or mesne profits]
[or rent and mesne profits] and costs:

And whereas the defendant has not obeyed the said order:

At bottom of Summons.

TAKE NOTICE.—If you the defendants, or any of you, be only tenants of the property or some part thereof, YOU MUST, upon being served with this summons, or if this summons shall come to your KNOWLEDGE, forthwith GIVE NOTICE thereof to your IMMEDIATE landlord or his bailiff or receiver, and if you do not give such notice you will be liable, under section 209 of 15 & 16 Vict. c. 76, to FORFEIT to your landlord THREE YEARS' RACKRENT of the premises demised to you or holden in your possession of him, in respect of which this summons has issued.

154.

Notice of Withdrawal of Action as to the Whole or Part of Property.

Take notice that I the above-named plaintiff will not proceed in this action [or in respect of that portion of the property herein-after described, that is to say, *here describe the said portion of property.*]

Plaintiff.

155.

Notice in Ejectment that a person not originally made a Defendant will appear and defend.

Take notice that M. N. has filed the affidavit, a copy of which is hereunto annexed, and that by leave of the registrar he will appear at the trial as a defendant.

To the plaintiffs.

156.

Notice in Ejectment that a Defendant will limit his Defence to Part of the Property.

Take notice that the above-named defendant K. L. will at the trial of this action limit his defence to a part only of the property mentioned in the statement annexed to the summons; that is to say [*here describe the part to which the defence is limited with reasonable certainty*].

To the registrar of the court
and to the plaintiffs.

157.

Judgment in Ejectment for all the Plaintiffs for the Whole Property.

Upon the hearing of this cause at a court holden this day it is adjudged that the plaintiffs were on the* day of 18 and still are entitled to the possession of the property mentioned in the statement annexed to the summons in this action; that is to say [*describe the property as set out in the statement*]; and it is ordered that the defendants do give the plaintiffs possession of the said above-mentioned property forthwith [*or on the day of*]; and it is adjudged that the plaintiffs do recover against the defendants the sum of £ for costs.

* The day on which the summons issued, or the day stated in the summons on which the title of plaintiffs accrued.

D.C.C.

Q

And it is ordered that the defendants do pay to the registrar of this court the sum above mentioned on or before the day of 18 .

To the defendants.

Take notice that if possession be not given and payment made as above ordered, a warrant may issue requiring the bailiff of the court to give possession of the said property to the plaintiffs, and to levy the sum above mentioned, together with further costs.

158.

Judgment in Ejectment for all the Plaintiffs for Part of the Property against one of the Defendants, and for the other Defendants as to the Residue of the Property.

Upon the hearing of this cause, at a court holden this day, it is adjudged that the plaintiffs were, on the day of 18 , and still are entitled to the possession of part of the property mentioned in the statement annexed to the summons in this action; that is to say, [*describe the part the plaintiffs are adjudged entitled to,*] and for which part the defendant G. H. defended separately; but that the plaintiffs were not nor are entitled to the possession of the residue of the property described in the statement annexed to the summons for which the defendants I. J. and K. L. defended; and it is ordered that the defendant G. H. do give the plaintiffs possession of the said part of the said property, for which the said G. H. defended separately forthwith [*or on the day of 18*]; and it is adjudged that the plaintiffs do recover against the defendant G. H. the sum of £ for costs, and that the defendants I. J. and K. L. do recover against the plaintiffs the sum of £ for costs.

And it is ordered that the defendant G. H. do pay the said sum of £ , and the plaintiffs the said sum of to the registrar of this court, on or before the day of 18 .

To the defendant G. H. and to the plaintiffs.

Take notice that unless possession be given and payment made as above ordered a warrant or warrants may issue, requiring the bailiff of the court to give possession of the said property to the plaintiffs, and to levy the sums above mentioned from the parties ordered to pay the same respectively, together with further costs.

159.

Judgment in Ejectment for One of the Plaintiffs for all the Property against all the Defendants.

Upon the hearing of this cause at a court holden this day, it is adjudged that the plaintiff A. B. was on the day of 18 , and still is, entitled to the possession of the property mentioned in the statement annexed to the summons in this action; that is to say [*describe the property as set out in the statement annexed to the summons*]; and it is ordered that the defendants do give the said plaintiff A. B. possession of the said above-mentioned property forthwith [*or on the day of*], and it is adjudged that the said plaintiff A. B. do recover against the defendants the sum of £ for costs.

And it is ordered that the defendants do pay to the registrar of this court the sum above mentioned on or before the day of 18 .

To the defendants.

Take notice that unless possession be given and payment made as above ordered a warrant may issue, requiring the bailiff of the court to give possession of the said property to the plaintiff A. B., and to levy the sum above mentioned, together with further costs.

160.

Judgment in Ejectment for Plaintiff whose Title has expired before Trial.

Upon the hearing of this cause at a court holden this day, it is adjudged that the plaintiff was on the day of 18 , and thence until and at the time of the entry of the plaint and of the service of the summons in this action, entitled to the possession of the property mentioned in the statement annexed to the summons in this action; that is to say [*here describe the property as set out in the statement*], but his title to the same has since that time and before this day expired; and it is further adjudged that the plaintiff do recover against the defendant the sum of £ for costs.

And it is ordered that the defendant do pay to the registrar of this court the sum above mentioned on or before the day of 18 .

161.

Judgment in Ejectment for Defendant.

Upon the hearing of this cause at a court holden this day, it is adjudged that the plaintiff was not on the day of 18 nor thence hitherto hath been nor is he now entitled to the possession of the property, or of any part of the property mentioned in the statement annexed to the summons in this action; that is to say [*here describe the property as set out in the statement*]; and it is further adjudged that judgment be entered for the defendant [*or that judgment of nonsuit be entered*], and that the defendant do recover against the plaintiff the sum of £ for costs.

And it is ordered that the plaintiff do pay the same to the registrar of this court on or before the day of 18 .

To the plaintiff.

162.

Judgment in Ejectment for Defendant's Costs where Plaintiff does not appear.

Whereas the plaintiff has not appeared, either by himself, his solicitor or agent, at the court holden this day, being the day appointed for the trial of this cause, and the defendant has appeared in person [*or by his solicitor or agent*], it is therefore adjudged that the cause be struck out, and that the defendant do recover from the plaintiff the sum of £ for costs.

And it is ordered that the plaintiff do pay the same to the registrar of this court on or before the day of 18 .

To the plaintiff.

Heading and Conclusion for Special Case in Ejectment.

In the county court of holden at .
(Seal.)

Whereas an action of ejectment was commenced by the plaintiff against the defendant, and is still pending in this court, for the recovery of [*here describe the property sought to be recovered as set out in the statement annexed to the summons*], and the parties have agreed upon the facts; now, by leave of the registrar, they state for the opinion of the court the following

[Here set out the facts, and any deeds or documents, or so much thereof as may be material, numbering each paragraph of the case as in an affidavit, and conclude thus:]

If the court shall be of opinion that the plaintiff is entitled to recover the whole or part of the property, then judgment shall be given accordingly for the plaintiff, with costs, but if the court shall be of a contrary opinion, then judgment shall be entered for the defendant, or judgment of nonsuit shall be given, with costs, as to the court shall seem fit.

A. B., plaintiff,
or
E. F., plaintiff's solicitor.
C. D., defendant,
or
G. H., defendant's solicitor.

Warrant of Execution in Ejectment for Possession and Costs.

Whereas at a court holden at on the day of 18 it was adjudged that the plaintiffs were on the day of 18 and still are entitled to the possession of the property mentioned in the statement annexed to the summons in this action; that is to say [*describe the property as set out in the statement*]; and it was ordered that the defendants should give the plaintiffs possession of the said above-mentioned property forthwith [*or on the day of*] and it was adjudged that the plaintiffs should recover against the defendants the sum of £ for costs; and it was ordered that the defendants should pay the said sum to the registrar of this court forthwith [*or on the day of*]:

And whereas the defendants have not obeyed the said order: These are therefore to authorize and require you to forthwith give possession of the said herein-before mentioned property to the plaintiff: And these are therefore further to require and order you forthwith to make and levy by distress and sale of the goods and chattels of the defendant, wheresoever they may be found within the district of this court (excepting the wearing apparel and bedding of the defendant or his family, and the tools and implements of his trade, if any, to the value of five pounds), the said sum and the costs of this warrant and execution: and also to seize and take any money or bank notes (whether of the Bank of England or any other bank), and any cheques, bills of exchange, promissory notes, bonds, specialties, or securities for money, of the defendant, which may be there found, or such part or so much thereof as may be sufficient to satisfy this execution and the costs of making and executing

the same, and to pay the amount so levied to the registrar of this court, and make return of what you have done under this warrant immediately upon the execution thereof.

To the high bailiff of
the said court.

165.

Special Warrant of Execution in Ejectment for Possession and Costs where one of several Plaintiffs has died after Judgment and before Execution executed.

Whereas at a court holden at on the day of 18 , it was adjudged that the plaintiffs were on the day of 18 and still are entitled to the possession of [*describe the property as in the statement annexed to the summons*], mentioned in the statement annexed to the summons in this action; and it was ordered that the defendants should give the plaintiffs possession of the same forthwith [*or as in the judgment*]; and it was adjudged that the plaintiffs should recover against the defendants the sum of £ for costs; and it was ordered that the defendants should pay the said sum to the registrar of this court forthwith [*or as in the judgment*]:

And whereas the defendants have not obeyed the said order:

And whereas C. D. one of the plaintiffs has died since judgment was given and before execution executed:

These are therefore to authorize and require you to forthwith give possession of the said herein-before mentioned premises to the surviving plaintiffs A. B. and E. F. on behalf of themselves and of the legal representatives of the deceased plaintiff C. D. And these are therefore further, &c. [*conclude as in No. of the forms in the schedule.*]

166.

Judgment in Ejectment for Plaintiff where Defendant is Joint Tenant, Tenant in Common, or Coparcener with Plaintiff, and an actual Ouster is proved.

Upon the hearing of this cause at a court holden this day, it is adjudged that the plaintiff and defendant were on the day of 18 and still are entitled to the joint possession of the property mentioned in the statement annexed to the summons in this action as joint tenants [*or as tenants in common or as coparceners*]; that is to say, [*describe the property as set out in the statement,*] and it having been proved to the satisfaction of the court that the defendant did before the commencement of this action actually oust the plaintiff from the possession of the said property, and thence hitherto hath kept and still keeps the plaintiff ousted therefrom, it is adjudged and ordered that judgment be entered for the plaintiff, and that the defendant do give the plaintiff jointly with him the defendant possession of the said above-mentioned property forthwith [*or on the day of*], and that the plaintiff do recover against the defendant the sum of £ for costs.

And it is ordered that the defendant do pay to the registrar of this court the sum above mentioned on or before the day of 18 .

To the defendant.

Take notice that if possession be not given and payment made as above ordered, a warrant may issue requiring the bailiff of the court to give possession of the said property to the plaintiff, and to levy the sum above mentioned, with further costs.

167.

Judgment in Ejectment for Defendant where Defendant is Joint Tenant, Tenant in Common, or Coparcener with the Plaintiff, and no actual Ouster is proved.

Upon the hearing of this cause at a court holden this day, it is adjudged that the plaintiff and the defendant were on the day of 18 and still are entitled as joint tenants [or as tenants in common or as coparceners] to the joint possession of; that is to say [*describe the property as set out in the statement*], mentioned in the statement annexed to the summons in this action; and it not having been proved to the satisfaction of the court that the defendant has actually ousted the plaintiff from the possession of the said property or of any part thereof, it is adjudged and ordered that judgment be entered for the defendant, and that the defendant do recover against the plaintiff the sum of £ for costs.

And it is ordered that the plaintiff do pay to the registrar of this court the sum above mentioned on or before the day of 18 .

To the plaintiff.

168.

Order in Ejectment for the Substitution of the Heir or other Representative of a sole Plaintiff who dies before the Return Day for such deceased Plaintiff, and for the Continuation of the Action in the name of the Heir or other Representative.

Upon reading the affidavit of E. F., and upon hearing the attorneys of the said E. F., and of the defendant, and it appearing to the court that the plaintiff A. B. died on the day of now last past, and since the commencement of this action, and that the said E. F. is the heir-at-law of the said A. B., and as such heir entitled to whatever estate or interest the said A. B. had in the property sought to be recovered in this action [or that the said E. F. is entitled as devisee under the will of the said A. B. to whatever estate or interest the said A. B. had in the property sought to be recovered in this action, or, *as the case may be*], it is ordered that the name of the said E. F. as heir-at-law [or as devisee under the will, or *as the case may be*,] of A. B. deceased be substituted in the proceedings in this action for the name of the said A. B. deceased as plaintiff in this action, and that the said E. F. be at liberty to continue this action in his own name as plaintiff, and to proceed therein as if he had been originally the plaintiff therein, and that the said E. F. do pay to the registrar of this court on or before the day of 18 , the sum of £ for the costs occasioned to the defendant by this application, and that the trial of this action be forthwith proceeded with [or be adjourned to the day of 18 .]

To the defendant.

N.B.—In explanation of this form it may be mentioned that after the amendment the title of the cause will stand thus:—

Between E. F. (the heir-at-law of A. B., the
original plaintiff deceased) - - - plaintiff.
and

C. D. - - - - defendant.

Or,

Between E. F. (devisee under the will of A. B.,
the original plaintiff deceased) - - plaintiff.

and

C. D. - - - - defendant.

169.

Order in Ejectment for the Substitution of the Heir or other Representative of one of several Plaintiffs who dies before the Return Day for such deceased Plaintiff, and for the Continuation of the Action in the names of the surviving Plaintiff, and of the Heir or other Representative of the deceased Plaintiff.

Upon reading the affidavit of K. L., and upon hearing the attorneys of the said K. L. and of the defendants, and it appearing to the court that the plaintiff C. D. died on the day of now last past, and since the commencement of this action, and that the said K. L. is the heir-at-law [or *as the case may be*] of the said C. D., and as such heir [or *as the case may be*] is entitled to whatever estate or interest the said C. D. had in the property sought to be recovered in this action; it is ordered that the name of the said K. L. as heir-at-law [or *as the case may be*] of C. D. deceased be substituted in the proceedings in this action for the name of the said C. D. deceased as one of the plaintiffs, and that the action be continued and proceeded with in the names of A. B. and K. L. as plaintiffs as if the said A. B. and K. L. had been originally the plaintiffs therein, and that the said K. L. do pay to the registrar of this court on or before the day of 18 , the sum of £ for the costs occasioned to the defendants by this application, and that the trial of this action be forthwith proceeded with [or be adjourned to the day of 18].

To the defendants.

170.

Judgment in Ejectment for Substituted Plaintiff.

In the county court of holden at .

(Seal.)

Between E. F., the heir-at-law of A. B. [*the original plaintiff*] deceased plaintiff,
and
C. D. defendant.
Or,
[Between E. F., devisee under the will of
A. B., the original plaintiff, deceased .. plaintiff,
and
C.D. defendant.]

Whereas the plaintiff A. B. died after the commencement of this action, and before the return-day of the summons therein and by an order of the court made this day [or on the day of last], it was ordered, amongst other things, that the name of the said E. F., as heir-at-law of A. B. deceased, should be substituted in the proceedings in this action for the name of the said A. B. deceased as plaintiff, and that the action should be continued in the name of the said E. F. as plaintiff as aforesaid.

Now, upon the hearing thereof at a court holden this day, it is adjudged that the said A. B. on the day of 18 , and thence until the day of his death, was entitled to the possession of the property mentioned in the statement annexed to the summons in this action; that is to say [*describe the property as set out in the statement*]; and that the said plaintiff E. F. is the heir-at-law of the said A. B., and as such heir became on the death of the said A. B. and still is entitled to the possession of the said above-mentioned property; and it is ordered that the defendant do give the plaintiff E. F. possession of the above-mentioned property, forthwith [or on the

day of 18], and it is adjudged that the plaintiff E. F. do recover against the defendant the sum of £ for costs:

And it is ordered that the defendant do pay to the registrar of this court the sum above mentioned on or before the day of 18 .
Given under the seal of the court this day of 18 .

By the court,
Registrar of the court.

To the defendant.

Take notice that if possession be not given and payment made as above ordered a warrant may issue requiring the bailiff of the court to give possession of the said property to the plaintiff, and to levy the sum above mentioned, together with further costs.

[N.B.—If E. F. be entitled as devisee under the will of A. B., the original plaintiff, or if A. B. be one of several joint plaintiffs, the above form must be altered accordingly.]

171.

Judgment in Ejectment for Surviving and Substituted Plaintiffs.

No. of plaint.

In the county court of holden at .
(Seal.)

Between A. B. and K. L. the heir-at-law of C. D. } Plaintiffs.
(one of the original plaintiffs) deceased . }
and

E. F. and G. H. Defendants.

Whereas one of the plaintiffs, C. D., died after the commencement of this action and before the return-day of the summons therein, and by an order of this court made this day [or on the day of last] it was ordered (amongst other things) that the name of the said "K. L. as heir-at-law of C. D. deceased" should be substituted in the proceedings in this action for the name of the said C. D. deceased, together with the name of the said A. B. as plaintiffs, and that the action should be continued in the names of the said A. B. and K. L. as plaintiffs as aforesaid:

Now, upon the hearing thereof at a court this day holden, it is adjudged, that the said A. B. and C. D. deceased were on the day of 18 , and thence until the day of the death of the said C. D., entitled to the possession of [describe the property as in the statement annexed to the summons], mentioned in the statement annexed to the summons in this action; and that the said plaintiff K. L. is the heir-at-law of the said C. D. deceased, and that on the death of the said C. D., the said A. B. and K. L. became and still are entitled to the possession of the property in the said statement mentioned; and it is ordered that the defendants do give the plaintiffs A. B. and K. L. possession of the property above mentioned and described forthwith [or on the day of 18]; and it is adjudged that the plaintiffs A. B. and K. L. do recover against the defendants the sum of £ for costs:

And it is ordered that the defendants do pay to the registrar of this court the sum above mentioned on or before the day of 18 .
Given under the seal of the court this day of 18 .

By the court,
Registrar of the court.

To the defendants.

[If K. L. be entitled as devisee under the will of C. D., one of the original plaintiffs, this form must be altered accordingly.]

172.

Order in Ejectment, giving Leave to a Party claiming the Property on the Death of Defendant, who dies before the Return-Day, to appear and defend in the Place of such deceased Defendant.

Upon reading the affidavit of E. F., and upon hearing the attorneys of the said E. F., and of the plaintiff, and it appearing to the court that the defendant has died since the commencement of the action, and that upon the death of the defendant the said E. F. became entitled to whatever estate or interest the defendant C. D. had in the property sought to be recovered in this action; it is ordered that the said E. F. be at liberty to appear and defend the said property above-mentioned and described in the place of the said C. D. deceased, and that the name of the said E. F. be substituted for that of the said C. D. deceased, as defendant in the proceedings in this action, and that this action be continued as if the said E. F. had been originally made defendant therein; and that the said E. F. do pay to the registrar of this court on or before the day of 18 the sum of £ for the costs occasioned to plaintiff by this application, and that the trial of this action be forthwith proceeded with [or be adjourned to the day of 18].

To the plaintiff.

[N.B.—In explanation of this form it may be mentioned that after the amendment the title of the cause will stand thus:—

Between A. B., plaintiff,
and

E. F. (substituted for C. D., deceased), defendant,
and all subsequent proceedings will be against E. F. as if he had been originally defendant.]

173.

Summons in Ejectment in the Nature of a Scire Facias for Costs against the Representatives of a deceased Defendant.

No. of plaint.

In the county court of holden at .

(Seal.)

Between A. B., plaintiff,
[Address, Description,]
and

C. D., defendant,
[Address, Description.]

Whereas the plaintiff at a court holden at on the day of 18 obtained a judgment against C. D. of for the recovery of the possession of [here describe the property as in the judgment], and for the sum of £ for costs, which judgment remains unsatisfied so far as relates to the said costs; and whereas the said C. D. has since died, and you are his executor [or state other representative character], you are hereby summoned to appear at a court to be holden at on the day of 18 at o'clock in the noon, to show cause why judgment should not be entered up against you at the suit of the plaintiff on the judgment so obtained for the said sum of for costs, and why execution should not issue thereon for the same.

To the defendant.

£ s. d.

Due on judgment for costs . . . : :

[N.B.—Judgments can easily be framed from the ordinary form of judgment on scire facias summons.]

174.

*Judgment in Ejectment for Plaintiff who has withdrawn the
Action as to Part of the Property.*

Whereas the plaintiff has withdrawn this action as to part of the property mentioned in the statement annexed to the summons in this action ; that is to say [*describe the part of the property as set out in plaintiff's notice*], and the action has proceeded for the recovery of the remainder of the said property ; now upon the hearing thereof this day it is adjudged that the plaintiff was on the day of 18 and still is entitled to the possession of the remainder of the property mentioned in the statement annexed to the summons in this action ; that is to say [*describe the remainder of the property*]; and it is ordered that the defendant do give the plaintiff possession of the said lastly above-mentioned property forthwith [*or on the day of*]; and it is adjudged that the plaintiff do recover against the defendant the sum of £ for costs :

And it is ordered that the defendant do pay to the registrar of this court the sum above mentioned on or before the day of 18 .

To the defendant.

[*N.B.—If the judgment be that plaintiff recover part only of the remainder of the property, or be for the defendant, this form must be altered accordingly.*]

175.

*Confession in Ejectment by Defendant of Plaintiff's Title to
the Property.*

No. of plaint.

In the county court of holden at .
Between A. B., plaintiff,
and
C. D., defendant.

I, the above-named defendant, hereby confess and admit the plaintiff's title to the property mentioned in the statement annexed to the summons in this action, and sought to be recovered therein, and that the plaintiff is entitled to the immediate possession thereof.

Dated this day of 18 .

Defendant.

Signed by the defendant in the presence of .
To the registrar of the court.

176.

*Confession in Ejectment by Defendant defending separately for
Part of the Property of Plaintiff's Title to such Part.*

No. of plaint.

In the county court of holden at .
Between A. B., plaintiff,
and
C. D. and E. F. defendants.

I, C. D., one of the above-named defendants, defending separately for [*here describe the part for which C. D. defends*], being part of the property mentioned in the statement annexed to the summons in this action, and for which no other person defends, do hereby confess and admit the plaintiff's

title to the above-mentioned part of the said property, and that he is entitled to the immediate possession thereof.

Dated this day of 18 .

C. D., one of the defendants.

Signed by C. D., one of the defendants, in the presence of .
To the registrar of the court.

177.

Judgment in Ejectment for Plaintiff where a Defendant, defending separately for part of the Property, admits Plaintiff's Title to such Part, and the Action proceeds for the Recovery of the Remainder of the Property.

Whereas C. D., one of the defendants defending separately for [*here describe the part for which C. D. defends*], being part of the property mentioned in the statement annexed to the summons in this action, and for which no other person defends, hath confessed and admitted the plaintiff's title to the said part of the said property, and that the plaintiff is entitled to the possession thereof; and whereas the action has proceeded for the recovery of the remainder of the said property: Now, upon the hearing thereof at a court holden this day, it is adjudged that the plaintiff was on the day of 18 and still is entitled to the possession of the remainder of the property mentioned in the statement annexed to the summons in this action; and it is ordered that the defendant C. D. do give the plaintiff possession of the said [*describe the part defended by C. D.*] forthwith [*or on the day of 18*], and that the defendant E. F. do give the plaintiff possession of the said [*the remainder of the property*] forthwith [*or on the day of 18*]; and it is adjudged that the plaintiff do recover against the defendant C. D. the sum of £ for costs, and against the defendant E. F. the sum of £ for costs.

And it is ordered that the defendants do respectively pay the said sums above mentioned to the registrar of this court on or before the day of 18 .

To the defendants.

Take notice, that unless possession be given and payment made as above ordered a warrant may issue requiring the bailiff of the court to give possession of the said property to the plaintiff, and to levy the sums above mentioned, together with further costs.

[N.B.—*If the judgment be that plaintiff recover part only of the remainder of the property, or be for the defendant, the above form must be altered accordingly.*]

178.

Notice in Ejectment by Mortgagee against Mortgagor that Defendant has paid into Court a Sum of Money for Principal, Interest, and Costs.

Take notice, that the defendant has paid into court the sum of £ as being all that is due for principal and interest upon the mortgage upon which this action is brought, and for costs; and further take notice, that if you are willing to accept the said sum so paid into court you need not appear on the return-day of the summons; but if you do not agree to accept the said sum so paid in as aforesaid, you should appear at the court on that day, as the court will then proceed to determine whether the said sum of £ so paid into

court as aforesaid is sufficient to satisfy all such principal, interest, and costs and fees as aforesaid, and will in either case make such order in the matter as to the court shall seem fit.

Dated this day of 18 .

Registrar of the court.

To the plaintiff.

179.

Order in Ejectment by Mortgagee against Mortgagor (all Money due for Principal, Interest, and Costs having been paid into Court) upon Plaintiff to reconvey to the Defendant the mortgaged Property.

Whereas this action is brought to recover possession of certain property mortgaged by the defendant to the plaintiff, and the defendant has paid into court the sum of £ for principal, interest, and costs due upon or in respect of the said mortgage: Now upon the hearing thereof at a court this day holden, the plaintiff not appearing, [or the plaintiff agreeing to accept the said sum of £ for such principal, interest, and costs, as aforesaid, or the plaintiff, alleging that the said sum of £ is not sufficient to satisfy such principal, interest, and costs, as aforesaid, it is adjudged that the said sum is sufficient to satisfy such principal, interest, and costs, as aforesaid, and] it is ordered that within days from this day the plaintiff shall, at the costs and charges of the defendant, reconvey to the defendant the mortgaged property for the recovery of which this action is brought, and shall deliver up to the defendant all title deeds and writings relating to the property.

To the plaintiff and to the defendant.

180.

Order in Ejectment by Mortgagee against Mortgagor (a certain Sum having been paid into Court for Principal, Interest, and Costs), that Defendant shall pay a further Sum into Court, and that upon such Payment being made the Plaintiff shall reconvey the mortgaged Property to the Defendant.

Whereas this action is brought to recover possession of certain property mortgaged by the defendant to the plaintiff, and the defendant has paid into court the sum of £ for principal, interest, and costs due upon or in respect of the said mortgage: Now, upon the hearing thereof at a court this day holden, the plaintiff refusing to accept the said sum so paid into court as aforesaid, it is adjudged that the said sum of £ is not sufficient to satisfy the principal, interest, and costs due upon or in respect of the said mortgage, and that the further sum of £ is due from the defendant to the plaintiff for the same; and it is ordered that the defendant shall on or before the day of 18 pay to the registrar of this court the said last-mentioned sum, together with £ for the plaintiff's costs in this action, and that upon the said sums of £ and £ , amounting together to the sum of £ , being paid into court on or before the said day of 18, the plaintiff shall, within days from the said last-mentioned day, at the costs and charges of the defendant, reconvey to the defendant the mortgaged property for the recovery of which this action is brought, and deliver up to him all title deeds and writings relating thereto; and it is further ordered, that if the defendant shall not, before or on the said day of 18, pay the said last-mentioned sum, then execution shall forthwith issue on the applica-

tion of the plaintiff for the recovery of the possession of the property described in the summons in this action, and for the sum of £ [the costs of this action], together with the costs of the execution; and the registrar shall return the money paid into court to the defendant.

To the plaintiff and to the defendant.

181.

Particulars or Statement of the Cause of Action under Section 12 of 30 & 31 Vict. c. 141.

This action is brought,—

A. For that the plaintiff was possessed of a cottage, and by reason thereof was entitled to a right of way from and to the said cottage, over and through a certain inclosed yard of the defendant, to a certain spring of water, for the purpose of getting water from the said spring, and that the defendant hath prevented the plaintiff from using the said way and having thereby access to the said spring, and still hinders and prevents him therefrom; and neither the annual value nor the yearly rent of the lands, tenements, or hereditaments in respect of which or on, through, or over which such easement is claimed exceeds the sum of £20; and the plaintiff claims £20 damages. Interruption of right of way.

B. For that the plaintiff was possessed of a cottage and premises, and by reason thereof was entitled to have all the sewage and waste water arising on and from the said cottage and premises flow along and through a drain through and under the surface of a garden in the occupation of defendant into a cesspool there, and the defendant, by stopping up the said drain, hath prevented and still prevents such sewage and waste water from flowing through and along the said drain into the said cesspool; and neither, &c. [as in the last form], and the plaintiff claims 5s. damages. Interruption of drainage.

C. For that the plaintiff was possessed of a house, in which there were divers windows, and by reason thereof was entitled to the free access of air and light into the said house through the said windows, and the defendant by building a wall close to and in front of the said windows, hath darkened the plaintiff's house, and prevented and still prevents the access of light and air into the plaintiff's house as plaintiff before enjoyed the same; and neither the annual value nor yearly rent of either plaintiff's house, or of the land on which the defendant has built the said wall, exceeds the sum of £20; and the plaintiff claims 40s. damages. Obstruction of light and air.

[The above forms are given merely as examples, and the statement in all cases must be in accordance with the right claimed, and be as concise as possible.]

182.

Notice to Distrainor of Goods [or Cattle] intended to be replevied.

In the county court of holden at .

Take notice, that A. B. of, &c., whose goods [or cattle] you have distrained, intends to replevy the same, and has proposed as his sureties for the due prosecution of an action of replevin against you in the [here mention the court in which the action is to be brought], E. F. of, &c., and G. H. of, &c., and that if you have any valid objection to make to the proposed sureties, or either of them, you must attend at [here insert place of office of registrar], on the day of 18 , at the hour of , when the bond will be submitted to me for approval.

19 & 20 Vict.
c. 108, ss.
63, 64.

J. K.,
Registrar of the court.

183.

Bond in Replevin where Action to be commenced in High Court.

19 & 20 Vict.
c. 108, s. 65.
(a) The dis-
trainer.

Know all men by these presents, that we A. B. of, &c., C. D. of, &c., and E. F. of, &c., are held and firmly bound unto G. H. (a) of, &c., in £ to be paid to the said G. H. or his certain attorney, executors, administrators, or assigns, for which payment to be made we bind ourselves and each and every of us, in the whole, our and each of our heirs, executors, and administrators, jointly and severally, firmly by these presents.

Sealed with our seals, and dated this day of one thousand eight hundred and .

I approve of
this bond.
I. K.,
Registrar.
(L.S.)
This bond
does not re-
quire a stamp.
See 5 Geo. 4,
c. 41.

Whereas the above-named C. D. and E. F., at the request of the said A. B., have agreed to enter into the above-written obligation, and his security has been approved of by , the registrar of the county court of holden at , as appears by his allowance in the margin hereof:

Now the condition of this obligation is such, that if the above-bounden A. B. do and shall within one week from the date of the said obligation commence an action of replevin against the above-named G. H. in her Majesty's High Court of Justice, for taking and unjustly detaining of certain goods and chattels of the said to wit [*here insert the description of the goods and chattels*], and prosecute such action with effect and without delay, and unless judgment be obtained thereon by default, do and shall prove before the said court of that he the said had good ground for believing that the title to the here- ditament in respect of which the distress was made was in question [*or, that the title to a toll was in question,*] [*or, that the title to a market was in question,*] [*or, that the title to a fair was in question,*] [*or, that the title to a franchise was in question,*] [*or, that the alleged rent or damage in respect of which the distress was made exceeded twenty pounds*], and do and shall also make return of the said goods and chattels, if return thereof shall be awarded, then this obli- gation shall be void and of no effect, otherwise shall be and remain in full force.

A. B. (L.S.)
C. D. (L.S.)
E. F. (L.S.)

Signed, sealed, and delivered by the above bounden in the presence of .

19 & 20 Vict.
c. 108, s. 71.

NOTE.—*If a deposit of money be made, the memorandum thereof should follow the terms of the conditions of the bond, and will not require a stamp.*

184.

Bond in Replevin where Action to be commenced in County Court.

19 & 20 Vict.
c. 108, s. 66.
(a) The dis-
trainer.

Know all men by these presents, that we, A. B. of, &c., C. D., of, &c., and E. F. of, &c., are held and firmly bound unto G. H. (a) of, &c., in £ to be paid to the said G. H., or his certain attorney, executors, administrators, or assigns, for which payment to be made we bind ourselves and each and every of us, in the whole, our and each of our heirs, executors, and adminis- trators, jointly and severally, firmly by these presents.

Sealed with our seals, and dated this day of one thousand eight hundred and .

I approve of
this bond.
I. K.,
Registrar.
(L.S.)
This bond
does not re-
quire a stamp.
See 5 Geo. 4,
c. 41.

Whereas the above-named C. D. and E. F., at the request of the said A. B., have agreed to enter into the above-written obligation, and this security has been approved of by , the registrar of the county court of holden at , as appears by his allowance in the margin hereof:

Now the condition of this obligation is such, that if the above-bounden A. B., do and shall within one month from the date of the said obligation commence an action of replevin against the above-named G. H. in the county court of holden at for taking and unjustly detaining of certain goods and chattels of the said to wit [*here insert the description of the*

goods and chattels], and prosecute such action with effect and without delay, and do and shall also make return of the said goods and chattels, if return thereof shall be awarded, then this obligation shall be void and of no effect, otherwise shall be and remain in full force.

A. B. (L.S.)

C. D. (L.S.)

E. F. (L.S.)

Signed, sealed, and delivered by the above bounden in the presence of

NOTE.—*If a deposit of money be made, the memorandum thereof should follow the terms of the conditions of the bond, and will not require a stamp.* 19 & 20 Vict. c. 108, s. 71.

185.

Warrant to High Bailiff to replevy.

In the county court of
holden at

}

Whereas hath given security as well to commence his action of replevin against for the taking and unjustly detaining of certain goods and chattels [*or cattle*] of the said that is to say: and prosecute such action with effect and without delay, as also to return the said goods and chattels if return thereof shall be adjudged by law: Now, as registrar of the said county court, and by virtue of the provisions of the 19 & 20 Vict. c. 108, I hereby authorize and direct you without delay to replevy and deliver the said goods and chattels [*or cattle*] to the said and forthwith to return to me this warrant and what you shall have done under the same.

19 & 20 Vict. c. 108, s. 63.

Dated the day of 18 .

Registrar of the court.

To the high bailiff of the court.

In obedience to this warrant, I have replevied and caused to be delivered to the within-named the within-mentioned goods and chattels [*or cattle*].

Dated this day of 18 .

High Bailiff.

(For Judgment for Plaintiff in Replevin, see Form 24.)

186.

Judgment for Defendant in Replevin for Rent.

Upon hearing this cause at a court holden this day, it is adjudged that the plaintiff do return to the defendant the goods and chattels, [*or cattle, stating the particulars thereof,*] and pay to the registrar of the court forthwith [*or on the day of*], the sum of £ for costs of suit [*or, It is adjudged that the amount due for rent in arrear from the plaintiff to the defendant is £ and that the goods and chattels [*or cattle*] were of the value of £ and that the plaintiff do forthwith [*or on the day of*] pay to the registrar of the court, at his office, the said sum of £ and also the sum of £ for costs of suit.*

187.

Judgment for Defendant in Replevin of Cattle Damage feasant.

Upon hearing this cause at a court holden this day, it is adjudged that the plaintiff do return to the defendant the cattle [*here specify the cattle*] or do pay to the registrar of this court, forthwith [*or on the day of* 18], the sum of £ , which is now adjudged to be the amount of damage sustained by the defendant.

It is also adjudged that the plaintiff do pay to the registrar of the court, on the day and year aforesaid, the sum of £ for costs.

188.

Judgment in Detinue.

Upon hearing this cause at a court holden this day, it is adjudged that the plaintiff do recover against the defendant the sum of £ , the same being now this day assessed by this court to be the value of the following chattels of the plaintiff wrongfully detained by the defendant; that is to say, [*here enumerate the chattels which the court decides to have been detained*] and the further sum of £ for damages for the detention of the said chattels, and the sum of £ for costs.

And it is ordered, that the defendant do pay the said several sums to the registrar of the court on the day of 18 .

Acknowledgment of payment into court.	* And it is further ordered, that if the defendant shall on or before the said last-mentioned day pay to the registrar the said sums respectively above ordered to be paid for damages and costs, and also return to the plaintiff the said chattels, and if the plaintiff shall then accept the same, then satisfaction of this judgment shall be entered up by the registrar on the production to him of a receipt for the said chattels signed by the plaintiff or his attorney or agent into court.
_____ £. s. d.	

* This paragraph is not to be added unless it be part of the order of the judge.

189.

Warrant of Execution in Detinue against Goods of Defendant.

Whereas at a court holden at on the day of 18 , the plaintiff obtained a judgment against the defendant for the sum of the same being assessed by this court to be the value of certain chattels of the plaintiff wrongfully detained by the defendant, and for the further payment of £ for damages for the detention of the said chattels, and of £ for costs; and thereupon it was ordered by the court, that the defendant should pay the same to the registrar of this court on the day of [or by instalments of for every days, the first instalment to be paid on the day of 18]:

* And it was further ordered, that if the defendant should on or before the said last-mentioned day pay to the registrar the said sums respectively above ordered to be paid for damages and costs, and also return to the plaintiff the said chattels, and if the plaintiff should then accept the same, then satisfaction of the said judgment should be entered up by the registrar on the production to him of a receipt for the said chattels signed by the plaintiff or his solicitor.*

And whereas † the defendant did not on the said day of 18 return the said chattels to the plaintiff, and † default has "also" been made in payment according to the said orders:

These are therefore to require and order you forthwith to make and levy by distress and sale of the goods and chattels of the defendant wheresoever they may be found within the district of this court (except the wearing apparel and bedding of him or his family, and the tools and implements of his trade, if any, to the value of five pounds), the sum stated at the foot of this warrant, being the amount due to the plaintiff under the said order, including the costs of this execution; and also to seize and take any money or bank notes (whether of the Bank of England or of any other bank), and any cheques, bills of exchange, promissory notes, bonds, specialties, or securities for money of the defendant, which may there be found, or such part or so much thereof as may be sufficient to satisfy this execution and the costs of making and executing the same, and to pay what you shall have so levied to the registrar of this court, and to make return of what you have done under this warrant immediately upon the execution thereof.

[N.B.—If the judgment do not contain the words between asterisks omit those words in the warrant, and also the words between the marks (†) and (†) and the word "also."]

	£	s.	d.
Value of goods detained			
Damages for their detention			
Costs			
<hr/>			
Paid into court			
<hr/>			
Remaining due			
Poundage for issuing this warrant			
<hr/>			
Total amount to be levied			
<hr/>			

NOTICE.—The goods and chattels are not to be sold until after the end of five days next following the day on which they were seized, unless they be of a perishable nature, or at the request of the defendant.

Application was made to the registrar for this warrant at _____ minutes past 19 & 20 Vict.
the hour of _____ in the _____ noon of the _____ day of 18 _____ c. 108, s. 46.

190.

Order under the Friendly Societies and other Acts.

Upon hearing this cause at a court this day holden it is ordered that the defendant do [*here insert the terms of the order made by the court*]:
And it is further ordered, that [*recite terms of order*].

191.

Order for Warrant of Execution to issue under the Friendly Societies and other Acts.

Whereas at a court holden at _____ on the _____ day of 18 _____, it was ordered by the said court [*here insert the terms of the order of the court*]:
And it was then further ordered, that [*recite terms of order*].
And whereas it appears to the court that the defendant has not obeyed either of the said orders, although demand in that behalf was duly made upon him:
It is therefore ordered that a warrant of execution issue for the said sum, being the amount of such penalty and the costs thereof.

192.

Warrant of Execution against the Goods under the Friendly Societies and other Acts.

Whereas at a court holden at _____ on the _____ day of 18 _____, it was ordered by the said court, that [*here insert the terms of the order of the court*]:
And it was then further ordered, that [*recite terms of order*].
And whereas the defendant has not obeyed either of the said orders:
These are therefore to require and order you forthwith to make and levy by distress and sale of the goods and chattels of the defendant, wheresoever
D.C.C. R

they may be found within the district of this court (excepting the wearing apparel and bedding of the defendant or his family, and the tools and implements of his trade, if any, to the value of five pounds), the sum stated at the foot of this warrant, being the amount of such penalty and costs, including the costs of this execution, and also to seize and take any money or bank notes (whether of the Bank of England or of any other bank), and any cheques, bills of exchange, promissory notes, bonds, specialties, or securities for money of the defendant which may there be found, or such part or so much thereof as may be sufficient to satisfy this execution, and the costs of making and executing the same, and to pay what you shall have so levied to the registrar of the court, and make return of what you have done under this warrant immediately upon the execution thereof.

Given under the seal of the court, this day of 18 .
By the court,
Registrar of the court.

To the high bailiff of the said court,
and others the bailiffs thereof.

								£	s.	d.
Amount ordered to be paid			
Costs			
Poundage for issuing this warrant						
Total amount to be levied			

NOTICE.—The goods and chattels are not to be sold until after the end of five days next following the day on which they were seized, unless they be of a perishable nature, or at the request of the said defendant.

19 & 20 Vict. Application was made to the registrar for this warrant at minutes
c. 108, s. 46. past the hour of in the noon of the day of 18 .

193.

Warrant of Commitment for Contempt.

9 & 10 Vict. To the high bailiff and others the bailiffs of the said court, and all peace
c. 95, s. 113. officers within the jurisdiction of the said court, and to the governor or keeper of the [prison used by the court].

Whereas at the court holden on this day A. B. wilfully insulted the judge during his sitting in court [or C. D., the registrar, high bailiff, bailiff, or officer (as the case may be) of the said court during his attendance in court, or wilfully interrupted the proceedings of the said court, or wilfully misbehaved in the said court]:

These are therefore to require you, the said high bailiff, bailiffs, and others, to take the said A. B. and to deliver him to the governor [or keeper] of the above-named prison, and you the said governor [or keeper, &c.] to receive the said A. B. and him safely to keep in the said prison for days from the arrest under this warrant, or until he shall be sooner discharged by due course of law.

Given under the seal of the court, this day of 18 .
Judge of the court.

194.

Order under "The Mercantile Law Amendment Act, 1856."

19 & 20 Vict. Upon hearing this cause (the same being for breach of contract to deliver
c. 97, s. 2. specific goods for a price in money), at a court holden this day, it being

adjudged that the plaintiff is entitled to recover, it is, upon the application of the plaintiff, found and adjudged, that the goods in respect of the non-delivery of which the plaintiff is entitled to recover, and which remain undelivered, are as follows; (that is to say,) [*here enumerate the goods undelivered*]; and that the plaintiff would have been liable to pay the sum of £ [*here insert the sum to be paid by plaintiff for the delivery*] for the delivery thereof; and that the plaintiff will have sustained damages to the amount of £ [*here insert the sum assessed for damages if the goods be delivered*] if the said goods shall be delivered under execution as hereinafter mentioned, and to the amount of £ [*here insert the sum assessed for damages in the event of the non-delivery of the goods*] if the said goods shall not be so delivered: And thereupon judgment being now given for the plaintiff, it is, upon the application of the plaintiff, ordered that the said goods be delivered by defendant to the plaintiff, on the payment by him of the said sum of £ [*here insert the sum to be paid by plaintiff for the delivery*] on or before the day of now next ensuing, and that in default thereof execution do issue for the delivery to the plaintiff, on payment by the plaintiff of the said sum of £ [*here insert the sum to be paid by plaintiff for the delivery*], of the said goods; and that the defendant shall not have the option of retaining the same upon payment of the damages lastly assessed in the event of the non-delivery of the goods; and that the plaintiff do recover against the defendant the said sum of £ [*here insert the sum assessed for damages if the goods be delivered*] for damages and for costs.

And it is further ordered, that if the said goods or any part thereof cannot be found within the district of this court, the bailiff of this court shall distrain the defendant by all his lands and chattels within the district of this court till the defendant deliver the said goods, or, at the option of the plaintiff, the said bailiff shall cause to be made of the defendant's goods the said sum secondly above assessed for damages, or a due proportion thereof.

195.

Distringas and Warrant of Execution against Defendant's Goods for the Amount of Damages for Non-delivery of the Goods (supposing the Goods delivered under the Order and Distringas), and Costs, under "The Mercantile Law Amendment Act, 1856."

Whereas at a court holden at on the day of 18 , the plaintiff obtained a judgment against the defendant for the delivery to the plaintiff upon payment by the plaintiff of the sum of £ [*here insert the sum to be paid by plaintiff for the delivery*] of the following goods; that is to say [*here enumerate the goods enumerated in the judgment*]; and by the said judgment it was found and adjudged that the plaintiff will have sustained damages to the amount of £ [*here insert the sum assessed for damages if the goods be delivered*] if the said goods shall be delivered to the plaintiff under this warrant, and to the amount of £ [*here insert the sum assessed for damages in the event of the non-delivery of the goods*] if the said goods shall not be so delivered, and judgment being then given for the plaintiff, it was thereupon ordered that execution do issue for the delivery to the plaintiff, on payment by the plaintiff of the said sum of £ [*here insert the sum to be paid by plaintiff for the delivery*], of the said goods, and that the defendant should not have the option of retaining the said goods upon payment of the said sum of [*here insert the sum assessed for damages in the event of the non-delivery of the goods*], and that the plaintiff do recover against the defendant the said sum of £ [*here insert the*

19 & 20 Vict.
c. 97, s. 2.

sum assessed for damages if the goods be delivered] for damages, and £ for costs :

And it was further ordered, that if the said goods or any part thereof should not be found within the district of this court, the bailiff of this court should distrain the defendant by all his lands and chattels within the district of this court till the defendant deliver the said goods, or, at the option of the plaintiff, the said bailiff should cause to be made of the defendant's goods the said sum of £ [here insert the sum found for damages if the goods be not delivered], or a due proportion thereof :

And whereas the said goods have not been delivered according to the said order, and the said sum of £ so payable by the plaintiff as aforesaid has been paid to the registrar of this court, and the plaintiff has not expressed his option to have the said sum of £ [here insert the sum found for damages if the goods be not delivered], or a due proportion thereof, made of the goods of the defendant :

These are therefore to require and order you forthwith to seize the said goods so not delivered as aforesaid, wheresoever they may be found within the district of this court, and to deliver the same to the plaintiff, and pay over to the defendant upon seizure of the said goods the said sum of £ [here insert the sum to be paid by the plaintiff for the delivery] which is delivered to you together with this warrant :

And if the same cannot be found by you within such district, you are required and ordered to distrain all the lands and chattels of the defendant, wheresoever they may be found within the district of this court, and them hold until the defendant shall deliver the said goods to you ; and further to make and levy, by distress and sale of the goods and chattels of the defendant, wheresoever they may be found within the district of this court (excepting the wearing apparel and bedding of him or his family, and the tools and implements of his trade, if any, to the value of five pounds), the sum stated at the foot of this warrant, being the amount due to the plaintiff under the said order, including the costs of this execution ; and also to seize and take any money or bank notes (whether of the Bank of England or of any other bank), and any cheques, bills of exchange, promissory notes, bonds, specialties, or securities for money of the defendant which may there be found, or such part or so much thereof as may be sufficient to satisfy this execution, and the costs of making and executing the same, and to pay what you shall have so levied to the registrar of this court, and make return of what you have done under this warrant immediately upon the execution thereof.

Given under the seal of the court, this day of 18 .
By the court,
Registrar of the court.

To the high bailiff of the said court,
and others the bailiffs thereof.

	£	s.	d.
Amount found for damages if the goods be delivered ..			
Sum adjudged for costs			
Poundage for issuing this warrant			
Total amount to be levied			

NOTICE.—The goods and chattels seized for damages and costs are not to be sold until after the end of five days next following the day on which they were seized, unless they be of a perishable nature, or at the request of the defendant.

Application was made to the registrar for this warrant at minutes past the hour of . in the noon of the day of 18 .

[N.B.—When a plaintiff sues out this warrant, he must pay to the registrar the amount found by the judgment to be payable by plaintiff for the

delivery of the goods, and the registrar must hand over such amount to the bailiff with this warrant, for the bailiff to pay to the defendant, if either the defendant delivers the goods to the bailiff or the bailiff obtains possession of them under this warrant.]

196.

Warrant of Execution against Defendant's Goods under the Mercantile Law Amendment Act, where Plaintiff exercises the Option of having the Damages assessed for the Non-delivery of the Goods (where the Goods are not delivered pursuant to the Order) levied by distress and Sale of Defendant's Goods.

Whereas at a court holden at on the day of 18 , the 19 & 20 Vict.
 plaintiff obtained a judgment against the defendant for the delivery to the c. 97, s. 2.
 plaintiff, upon payment by the plaintiff of the sum of £ [*here insert the
 sum to be paid by plaintiff for the delivery*], of the following goods; that is
 to say [*here enumerate the goods enumerated in the judgment*]; and by the
 said judgment it was found and adjudged that the plaintiff will have sustained
 damages to the amount of £ [*here insert the sum assessed for damages
 if the goods be delivered*] if the said goods shall be delivered to the plaintiff
 under this warrant, and to the amount of £ [*here insert the sum assessed
 for damages in the event of the non-delivery of the goods*] if the said goods
 shall not be so delivered, and judgment being then given for the plaintiff,
 it was thereupon ordered that execution do issue for the delivery to the
 plaintiff on payment by the plaintiff of the said sum of £ [*here insert
 the sum to be paid by plaintiff for the delivery*] of the said goods, and that
 the defendant should not have the option of retaining the said goods upon
 payment of the said sum of £ [*here insert the sum assessed for
 damages in the event of the non-delivery of the goods*], and that the plaintiff
 do recover against the defendant the said sum of £ [*here insert the
 sum assessed for damages if the goods be delivered*] for damages, and
 £ for costs:

And it was further ordered that if the said goods or any part thereof
 should not be found within the district of this court, the bailiff of this court
 should distrain the defendant by all his lands and chattels within the district
 of this court till the defendant deliver the said goods, or, at the option of the
 plaintiff, the said plaintiff should cause to be made of the defendant's goods
 the said sum of £ [*here insert the sum found for damages if the goods
 be not delivered*], or a due proportion thereof: And whereas the said goods
 have not been delivered according to the said order, and the plaintiff has ex-
 pressed his option to have the said sum of £ [*here insert the sum assessed
 for damages in the event of non-delivery of the goods*] made of the goods
 and chattels of the defendant: These are therefore to require and order you
 forthwith to make and levy by distress and sale of the goods and chattels of
 the defendant wheresoever they may be found within the district of this court
 (excepting the wearing apparel and bedding of him or his family, and the
 tools and implements of his trade, if any, to the value of five pounds), the sum
 stated at the foot of this warrant, being the amount due to the plaintiff under
 the said order, including the costs of this execution, and also to seize and take
 any money or bank notes (whether of the Bank of England or of any other
 bank), and any cheques, bills of exchange, promissory notes, bonds, specialties,
 or securities for money of the defendant which may there be found, or such
 part or so much thereof as may be sufficient to satisfy this execution, and
 the cost of making and executing the same, and to pay what you shall have

so levied to the registrar of this court, and make return of what you have done under this warrant immediately upon the execution thereof.

Given under the seal of the court this

day of

18 .

By the court,

Registrar of the court.

To the high bailiff of the said court,
and others the bailiffs thereof.

	£	s.	d.
Amount found for damages if the goods be not delivered ..			
Sum adjudged for costs			
Poundage for issuing this warrant			
Total amount to be levied			

NOTICE.—The goods and chattels are not to be sold until after the end of five days next following the day on which they may have been taken, unless they be of a perishable nature, or at the request of the defendant.

19 & 20 Vict.
c. 108, s. 46.

Application was made to the registrar for this warrant at

minutes

past the hour of

in the fore [or after] noon of the

day of

18 .

197.

Defendant's Admission.

Order XII.,
r. 3.

I, the undersigned defendant, admit the truth of the allegations in the
plaint, and hereby submit to the judgment of the court thereon.

(Signed) C. D., defendant.

Signed in the presence of
[This paper marked (A.) is the paper referred to in the annexed
affidavit.]

198.

Affidavit of Signature to Defendant's Admission.

Order XII.,
r. 3.

I, of gentleman, a solicitor of her Majesty's Supreme Court
of at Westminster, make oath and say, that I was present on the
day of one thousand eight hundred and seventy , and did see the
above-named C. D., the defendant, sign the statement hereunto annexed,
marked with the letter A., and that the name set to the said statement is in
the handwriting of the defendant, and that the name set to the said statement
as the witness attesting the same is in my handwriting.

199.

Defendant's Statements.

Order XII.,
r. 2.

I, the undersigned defendant [or one of the defendants] disclaim all interest
under the will of the said E. F. named in the plaintiff's particulars [or as heir-
at-law of, or as next of kin, or one of the next of kin of E. F. deceased, named
in the plaintiff's particulars].
Or, I the undersigned defendant state, that I admit [or deny] [here repeat
in the language of the particulars the statements admitted or denied.]
Or, I the undersigned defendant submit that upon the facts stated in the
plaintiff's particulars it does not appear that there is any agreement which
can be legally enforced [or that it appears upon the plaintiff's particulars that

I am jointly liable with one E. F., who is not a party to the action, and not severally liable as by the particulars appear, *or* that it appears by the said plaintiff's particulars that G. H. should have been a joint plaintiff with the said A. B. in the said action, *or as the case may be*].

Or that the plaintiff has conveyed [*or assigned*] his interest in the said mortgage [*or equity of redemption*] to one I. J., *or* that I have conveyed or assigned to K. L., by way of further charge for securing the sum of £ , the equity of redemption in the property sought by the action to be foreclosed.

Or that since the dissolution of the partnership the plaintiff has executed a deed under seal, whereby the plaintiff covenants to discharge all debts and liabilities of the partnership, and generally to release me from all claims and liabilities either by or to himself and others in respect of the said partnership trading, *or as the case may be*.

(Signed) C. D., defendant.

Where filed by solicitor add—

This statement was filed by , of , solicitor for the defendant.

200.

Order.—Administration Action.

It is ordered that the following accounts and inquiries be taken and made; that is to say,—

In creditor's action.

1. That an account be taken of what is due to the plaintiff and all other the creditors of the deceased.

In action by legatees.

An account be taken of the legacies given by the testator's will.

In action by next of kin.

An inquiry be made and account taken of what, or of what share, if any, the plaintiff is entitled to as next of kin [*or one of the next of kin*] of the intestate.

[*After the first paragraph, the order will, where necessary, order, in a creditor's action, inquiry and accounts for legatees, devisees, heirs-at-law, and next of kin. In actions by claimants other than creditors, after the first paragraph in all cases an order to inquire and take an account of creditors will follow the first paragraph, and such of the others as may be necessary will follow, omitting the first formal words. The form is continued as in a creditor's action.*]

8. An account of the funeral and testamentary expenses.

4. An account of the personal estate of the deceased come to the hands of the defendant, or to the hands of any other person by his order or for his use.

5. An inquiry what part (if any) of the personal estate of the deceased are outstanding and undisposed of.

6. And it is further ordered, that the defendant do, on or before the day of next, pay into court all sums of money which shall be found to have come to his hands, or to the hands of any person by his order or to his use.

7. And that if the registrar shall find it necessary for carrying out the objects of the action to sell any part of the personal estate of the deceased, that the same be sold accordingly.

8. And that Mr. be receiver in the action, and receive and get in all outstanding debts and outstanding personal estate of the deceased, and pay the same into the hands of the registrar [and shall give security by bond for the due performance of his duties to the amount of £].

9. And it is further ordered, that if the personal estate of the deceased be found insufficient for carrying out the objects of the action, then the following further inquiries be made, and accounts taken; that is to say,

10. That an inquiry be made what real estate the deceased was seised of or entitled to at the time of his death.

11. What are the incumbrances (if any) affecting the real estate of the deceased or any part thereof.

12. An account, so far as possible, of what is due to the several incumbrancers, and to include a statement of the priorities of such of the incumbrancers as shall consent to the sale hereinafter directed.

13. And that the real estate of the deceased, or so much thereof as shall be necessary to make up the fund in court sufficient to carry out the object of the action, be sold, with the approbation of the judge, free from incumbrances (if any) of such incumbrancers as shall consent to the sale, and subject to the incumbrances of such of them as shall not consent.

14. And it is ordered, that shall have the conduct of the sale of the real estate, and shall prepare the conditions and contracts of sale, and the abstract of title, subject to the approval of the registrar, and that in case any doubt or difficulty shall arise the papers shall, with the like approval, be submitted to , Esquire, to settle.

15. And it is further ordered, that, for the purpose of the inquiries hereinbefore directed, the registrar shall advertise in the newspapers according to the practice of the court, or shall make such inquiries in any other way which shall appear to the registrar to give the most useful publicity to such inquiries.

16. And it is ordered, that the above inquiries and accounts be made and taken, and that all other acts ordered to be done be completed before the day of , and that the registrar do certify the result of the inquiries and the accounts, and that all other acts ordered are completed, and have his certificate in that behalf ready for the inspection of the parties on the day of .

17. And lastly it is ordered, that this action [or matter] stand adjourned for making a final decree to the day of .

[Such part only of this order is to be used as is applicable to the particular case.]

201.

Form of Order under Order XVIII., Rule 15, or under Order XI.

It appearing to me that it will be for the benefit of the estate that the remaining outstanding debts be sold, I do order that the debts now due to the estate of E. F., the testator [or intestate] in the plaint in this action mentioned be sold as soon as conveniently may be by [the receiver] by private contract [or public auction] for the highest price that can be obtained for the same.

Dated this day of .

J. S., Judge.

202.

Form of Order under Order XVIII., Rule 14, or under Order XI.

It appearing to me that it is necessary for carrying out the objects of this action that the real estate [or part of the real estate] of the deceased be sold, I do order that all that freehold [copyhold or leasehold] messuage or tenement, &c. [setting out parcels as in last conveyance], being the real [or part of the real] estate of E. F., late of in the county of , deceased, the testator [or intestate] in the plaint in the suit mentioned, be offered for sale by public auction at the Hotel at by Mr. auctioneer, and be

then and there sold [provided the sum bid for the same be not less than £
or] to the highest bidder without reserve.

Dated this day of .

J. S., Judge.

203.

Order for Reference in Foreclosure Action by Legal Mortgage.

It is ordered that it be referred to the registrar to take an account of what is due to the plaintiff for principal and interest on the mortgage mentioned in the plaint (making allowance on one side or the other for any rents or profits received by the plaintiff and for any sums of money lawfully expended by the plaintiff about the mortgaged premises), and to tax the plaintiff's costs of this action, and that the registrar do certify to the court, on the day of what he shall find to be due for principal and interest as aforesaid and for costs: And upon the defendant paying into court what shall be certified to be due to the plaintiff for principal and interest as aforesaid, together with the said costs, within six months after the registrar shall have presented his certificate, it is ordered that the plaintiff do re-convey the said mortgaged premises, free and clear from all incumbrances done by him, or any claiming by, from, or under him, and do deliver up to the registrar all deeds and writings in his custody or power relating thereto, and that upon such re-conveyance being made, and deeds and writings being delivered up, the registrar shall pay out to the plaintiff the said sum so paid in as aforesaid for principal, interest, and costs; but in default of the defendant paying into court such principal, interest, and costs as aforesaid, by the time aforesaid, then it is ordered that the defendant do stand absolutely debarred and foreclosed of and from all equity of redemption of, in, and to the said premises, and the registrar is to settle the conveyance if the parties differ about the same; and it is further ordered, that after the expiration of the said six months, the plaintiff shall be at liberty to apply to the court for a judgment for the foreclosure of the said mortgage.

[*N.B.*—Where the state of the account is ascertained at the first hearing, instead of the order of reference to the registrar, begin, It is declared that the sum of £ is now due to the plaintiff for principal and interest on the mortgage mentioned in the plaint, and it is ordered that the registrar do tax the plaintiff's costs of this action, and that]

204.

Order of Sale in an Action by a Legal or Equitable Mortgagee or Person entitled to a Lien.

It is ordered that it be referred to the registrar to take an account of what is due to the plaintiff for principal and interest on the mortgage [or equitable mortgage or lien] mentioned in the plaint, and to tax the plaintiff's costs of this action, and that the registrar do certify to the court on the day of what he shall find to be due for principal and interest as aforesaid, and for costs: And upon the defendant paying into court what shall be certified to be due to the plaintiff for principal and interest as aforesaid, together with the said costs, within six months after the registrar shall have presented his certificate, it is ordered that the plaintiff [do re-convey the said mortgaged premises free and clear from all incumbrances done by him, or any claiming by, from, or under him, and] do deliver up to the registrar all deeds and writings in his custody or power relating thereto, and that upon such re-conveyance being made, and deeds and writings being delivered up, the registrar

shall pay out to the plaintiff the said sum so paid in as aforesaid, for principal, interest, and costs; but in default of the defendant paying into court such principal, interest, and costs as aforesaid by the time aforesaid, then it is ordered that the said mortgaged premises [*or* the premises subject to the said equitable mortgage *or* lien] be sold with the approbation of the registrar: And it is ordered that the money to arise by such sale be paid into court, to the end that the same may be duly applied in payment of what shall be found due to the plaintiff for principal, interest, and costs as aforesaid, and that the balance (if any) shall be paid to the defendant.

205.

Order—Dissolution of Partnership.

It is declared that the partnership set forth in the plaintiff's particulars between the plaintiff and defendant ought to stand dissolved as from the day of _____, and it is ordered that the dissolution thereof as from that day be advertised in the London Gazette, &c.

And it is ordered that _____ be the receiver of the partnership estate and effects in this action, and do get in all the outstanding book debts and claims of the partnership.

And it is ordered that the following accounts be taken:—

1. An account of the credits, property, and effects now belonging to the said partnership.

2. An account of the debts and liabilities of the said partnership.

3. An account of all dealings and transactions between the plaintiff and defendant from the foot of the settled account exhibited in this action and marked (A.), and not disturbing any subsequent settled accounts.

And it is ordered that the goodwill of the business heretofore carried on by the plaintiff and defendant as in the plaint mentioned, and the stock-in-trade, be sold on the premises, and that the registrar may, on the application of any of the parties, fix a reserved bidding for all or any of the lots at such sale, and that either of the parties are to be at liberty to bid at the sale.

And it is ordered that the above accounts be taken, and all the other acts required to be done be completed, before the _____ day of _____, and that the registrar do certify the result of the accounts, and that all other acts are completed, and have his certificate in that behalf ready for the inspection of the parties on the _____ day of _____.

And lastly it is ordered that this action stand adjourned for giving judgment to the _____ day of _____.

206.

Judgment for Foreclosure.

Whereas it appears to the court that the defendant has not paid into court the sum _____ which was on the _____ day of _____ last certified by the registrar to be due to the plaintiff for principal and interest upon the mortgage mentioned in the plaintiff's particulars, and for costs, pursuant to the decretal order made in this action on the _____ day of _____ last, and that the period of six months has elapsed since the said _____ day of _____:

It is ordered that the defendant do stand absolutely debarred and foreclosed of and from all equity of redemption of, in and to the said mortgaged premises.

207.

*Partnership.**Judgment.*

It is ordered that the fund now in court, amounting to the sum of £
be applied as follows:—

1. In payment of the debts due by the partnership set forth in the registrar's certificate, amounting in the whole to £

2. In payment of the costs of all parties in this action, amounting to £
[*These costs must be ascertained before the decree is drawn up.*]

3. In payment of the sum of £ to the plaintiff as his share of the partnership assets, and of the sum of £, being the residue of the said sum of £ now in court to the defendant as his share of the partnership assets.

[*Or, And that the remainder of the said sum of £ be paid to the said plaintiff [or defendant] in part payment of the sum of £ certified to be due to him in respect of the partnership accounts.*]

And that the defendant [or plaintiff] do, on or before the day of , pay to the plaintiff [or defendant] the sum of £ being the balance of the said sum of £ due to him which will then remain due.]

208.

Notice of Order to absent Party.

Take notice that on the day of the order of which a copy is here-
unto annexed was made in this action, and that from the service of this notice
you will be bound by the proceedings in the above action in the same manner
as if you had been originally made a party to it, and that you may attend the
proceedings under the said order, and that you may apply to the court to add
to the order.

15 & 16 Vict.
c. 86, s. 42.

Dated this day of 18 .
To .

Registrar.

209.

Notice to Creditor to prove his Claim.

You are hereby required to prove the claim sent in by you against the estate
of A. B. deceased, by filing such affidavit as you may be advised in support
thereof, and by giving notice thereof to me, on or before the day of
next, and by attending at my office on the day of 18 , at
o'clock in the noon, being the time appointed for adjudicating on the claim.

Dated this day of 18 .
To .

Registrar.

210.

Notice to Creditor of Allowance of Claim.

The claim sent in by you against the estate of A. B. deceased has been
allowed at the sum of , with interest thereon at per cent. per annum,
from the day of 18 , and for costs.

[*If part only allowed, add, If you claim to have a larger sum allowed, you
are hereby required to prove such further claim, by filing such affidavit as you
may be advised in support thereof, and by giving notice thereof to me on or
before the day of next, and by attending at my office on the
day of 18 , at o'clock in the noon.*]

Dated this day of 18 .

Registrar.

211.

Registrar's Certificate.

In obedience to the order of this court made in the above action, I hereby certify that the result of the accounts and inquiries [*or of the sale and apportionment*] which have been taken and made in pursuance of the made in this dated the day of 18 , is as follows:—

The plaintiffs and defendants have attended by themselves or by their respective solicitors.

Notice of order.

Notice of the said order of the day of 18 , has been served upon .

The persons so served include all the now living and the personal representatives of such of them as are dead, except such as are parties to this action, and except hereinafter named.

Service of notice of the said order upon the said was dispensed with.

Personal estate account.

The defendant the executor [*or administrator*] of the testator [*or intestate*] named in the said have received personal estate to the amount of £ , and they have paid or are entitled to be allowed on account thereof sums to the amount of £ , leaving a balance due from [*or to*] them of £ on that account.

References to account.

The particulars of the above receipts and payments appear in the account marked A. verified by the affidavit of the said defendant filed the day of and the account marked B. verified by the affidavit of filed the day of , and which accounts are to be filed with this certificate.

Variations from accounts.

Except that in addition to the sums appearing in such account to have been received, the said defendant [*or plaintiff*] is [*or are*] charged with the following sums; (that is to say,) £ , and except that of the items of disbursement in the said account I have disallowed those numbered , and I have deducted from the item numbered the sum of £ and from the item numbered the sum of £ and in addition to the disbursements appearing in such account the said defendant ha paid and been allowed the sum of £ .

Special allowances in accounts.

The payments allowed to the said defendant [*or plaintiff*] in the said account include the sum of £ paid into court to the credit of this cause, on the day of 18 .

Reference to transcript of account.

The before-mentioned account marked A. has been altered, and the account marked A. B., and which is also to be filed with the certificate, is a transcript of the said account marked A. as altered and passed. .

No personal estate received.

The defendant the executor [*or administrator*] of the testator [*or intestate*] named in the said have not, nor hath any or either of them, or any person or persons by their or any or either of their order, or for their or any or either of their use, received any part of the personal estate of the said testator [*or intestate*].

Funeral expenses.

The funeral expenses of the testator [*or intestate*], amounting to the sum of £ have been paid and are allowed the defendant [*or plaintiff*] the executor [*or administrator*] of the said testator [*or intestate*] in the said account of personal estate [hereinafter mentioned].

Debts.

The debts of the testator [*or intestate*] including the plaintiff's, which have been allowed are set forth in the schedule hereto, and, with the interest

thereon, and costs mentioned in the said schedule, are due to the plaintiff and the other persons named therein, and amount altogether to . No other person has been allowed, or come in and proved, any debt against the estate of the said testator [*or* intestate], and the time fixed by advertisement for that purpose has expired.

Such of the said debts as are specialty are set forth in the first part of the said schedule, and amount to £ ; such as are simple contract are set forth in the second part of said schedule, and amount to £ .

Interest on debts.

The interest on such debts is computed down to the date of this certificate, and after the rate of £4 per centum per annum, from the day of 18 , the date of the said order, unless otherwise specified in the said schedule.

Legacies and annuities.

The legacies given by the testator, other than annuities, are set forth in the first part of the schedule hereto, and, with the interest therein mentioned, remain due to the persons therein named, and amount altogether to £ .

The annuities given by the testator, with the arrears due thereon, are set forth in the second part of the said schedule. Such arrears amount to £ .

Interest on legacies.

The interest on such legacies is computed down to the date of this certificate, and after the rate of £4 per centum per annum, from the day of 18 , the end of one year after the testator's death, unless otherwise specified in the said schedule.

The arrears of the annuities are computed to the date of this certificate, and from the testator's death, unless otherwise specified in the said schedule.

Outstanding estate.

The personal estate of the said testator [*or* intestate] [not specifically bequeathed] outstanding or undisposed of consists of the particulars set forth in the schedule hereto.

Real estate.

The real estate which the said testator [*or* intestate] was seised of or entitled to consists of the particulars set forth in the schedule hereto.

Incumbrances on real estate.

The incumbrances affecting the said testator's [*or* intestate's] real estate are specified in the schedule hereto.

Rents and profits account.

The defendants [*or* plaintiff] the trustee named in the said decretal order have received rents and profits of the testator's real estate to the amount of £ and they have paid or are entitled to be allowed on account thereof sums to the amount of £ , leaving a balance due from [*or* to] them of £ on that account.

No rents and profits received.

The defendants [*or* plaintiff] the trustees named in the said order have not, nor hath any or either of them or any person or persons by their or any or either of their order, or for their or any or either of their use, received any sum or sums of money on account of the rents and profits of the testator's [*or* intestate's] real estate.

Next of kin.

The next of kin, according to the statutes for the distribution of the effects of intestates, of the intestate named in the said living at the time of his death were of whom the said have since died.

The legal personal representative of the said

The legal personal representative of the said

The legal personal representative of the said

Dated this day of .

Registrar.

212.

Notice that Registrar's Certificate may be inspected.

Take notice that the certificate of the result of the inquiries made and accounts taken by me under the order of this court, made on the day of in this action lies in my office and can be inspected by you up to and inclusive of the day of [here insert the day before the cause is to be further heard].

To

Registrar.

213.

Bond to be given by Receiver.

Know all men by these presents, that we, A. B. of, &c., and C. D. of, &c., and E. F. of, &c., are jointly and severally held and firmly bound to G. H., registrar of the county court of _____ holden at _____, in £ _____ to be paid to the said G. H., or his certain attorney, executors, administrators or assigns. For which payment to be made we bind ourselves, and each and every of us, in the whole, our and each of our heirs, executors, and administrators, jointly and severally, firmly by these presents.

Sealed with our seals, and dated this day of one thousand eight
hundred and .

And whereas a plaint in equity has been entered in this court by A. B. against C. D. for the purpose of *[here insert object of suit]*:

And whereas the said A. B. has been appointed, by order of the above-mentioned court, to receive the rents and profits of the real [*or freehold or copyhold or leasehold*] estate [*or estates*] [*and to get in the outstanding personal estate*] of C. D., the testator in the said plaint named:

Now the condition of this obligation is such, that if the above-bounden A. B. do and shall duly account for all and every the sum and sums of money which he shall so receive on account of the rents and profits of the real estates, and in respect of the personal estate, of the said C. D. [*or as may be*] at such periods as the said court shall appoint, and do and shall duly pay the balances which shall from time to time be certified to be due from him as the said court hath directed or shall hereafter direct, then this obligation shall be void and of none effect, otherwise shall remain in full force and virtue.

A. B. (L.S.)
C. D. (L.S.)

Signed, sealed, and delivered by the above-bounden
of _____

NOTE.—If deposit of money be made the memorandum thereof should follow the terms of the condition of the bond, and will not require a stamp.

214.

Warrant of Assistance.

Whereas, according to the tenor and true meaning of an order, bearing date the day of 18 , made in this action, the said defendant C. D. was ordered to deliver up possession to A. B. in the said order named of all that, &c. [*as in order*]: And whereas a copy of such order was duly served upon the said C. D., yet nevertheless he the said C. D., and other ill-disposed persons, his accomplices, have refused to pay obedience thereto, and detain and keep the possession of the said house [*or tenement and premises*]: These are, therefore, to authorize and require you to forthwith enter into and upon the said messuage [*or tenement and premises*], and that you do remove, eject, and

expel the said C. D., his tenants, servants, and accomplices, each and every of them, out of and from the said messuage [*or* tenement and premises], and every part and parcel thereof, and that you do place and put the said A. B. and his assigns into the full, peaceable, and quiet possession thereof, and defend and keep him and his said assigns in such peaceable and quiet possession when and as often as any interruption may or shall from time to time be given or offered to them or any of them, according to the true intent and meaning of the said order ; and herein you are not in anywise to fail.

Given under the seal of the court, this day of 18 .

By the court,

Registrar.

To the high bailiff of the said court,
and others the bailiffs thereof.

215.

Warrant of Possession.

Whereas on the day of 18 , this court did order in this action that you, the high bailiff of this court, should [*or* that A. B. should] take possession of the goods and chattels of E. F. deceased, in the said action, and which at the date of the said order were in the possession of the defendant [and sell and convert the same into money or keep and hold the same to abide the further order of the court, as the case may be]:

These are therefore by virtue of the said order and the statute in such case made and provided to will and require, authorize and empower, you and every one of you to whom this warrant is directed forthwith to enter into and upon the house and houses of the said C. D. and also in all other place or places belonging to the said C. D. where any of the goods or chattels, part of the estate of the said E. F., deceased, are suspected to be ; and there to seize all the goods and chattels whatsoever belonging to the estate of the said E. F., deceased.

And in case of resistance, or of not having the key or keys of any door or lock of any premises belonging to the said C. D., where any of the goods or chattels, part of the estate of the said E. F. are suspected to be, you shall break open or cause the same to be broken open, for the better execution of this warrant.

Given under the seal of the court this day of 187 .

By the court,

Registrar.

To the high bailiff of the said court,
and others the bailiffs thereof.

216.

Notice of Change of Solicitor.

To the registrar of the court.

Take notice that I, A. B. [*or* C. D.], have hitherto employed as my solicitor G. H. of in the above-mentioned action, but that I have ceased to employ him, and that my present solicitor is I. K. of .

Order
XXXVII.

A. B. [*or* C. D.]

217.

Order of Payment of Legacy into High Court of Justice.

Whereas it has been found by this court by its decree of the day of in this suit [*or* matter] that K. L. of is entitled to the sum of

and whereas the said K. L. is an infant [*or absent beyond seas*], and it appearing to the court that it is desirable that, under the power given to it by the fifth section of the act of parliament passed in the twenty-eighth and twenty-ninth years of her Majesty's reign, chapter ninety-nine, C. D., the defendant in this suit [*or matter, as the case may be*], should be ordered to pay such sum of money to the paymaster-general of the Chancery Division of the High Court of Justice, in accordance with the provisions of section thirty-two of an act passed in the session of parliament held in the thirty-sixth year of the reign of his Majesty King George the Third, chapter fifty-two, it is ordered that the said do pay the same accordingly, and do within days produce to the registrar of this court the certificate of the said paymaster-general of the payment to him of such money.

By the court,

Registrar.

[*Endorsement on last Order.*]

N.B.—Your attention is drawn to the following provisions of the act 36 Geo. 3, c. 52, and to the rule of this court.

Any legacy or sum of money to which any person who is an infant or absent beyond seas may be found or declared entitled by any county court in any suit or matter under this act may be ordered by the court to be paid to the accountant-general of the Court of Chancery, in accordance with the provisions of section thirty-two of an act passed in the session of parliament held in the thirty-sixth year of the reign of his Majesty King George the Third, chapter fifty-two; and the person ordered to pay the same shall, within such time as the court shall direct, produce to the registrar of the court the certificate of the accountant-general of the payment of such money; and if default be made in such payment the judge may direct a warrant of execution to issue to the high bailiff of the court, who by such warrant shall be empowered to levy or cause to be levied by distress and sale of the goods and chattels of such person a sum of money equal in amount to the sum which he was ordered to pay to the said accountant-general, and to the costs incurred by reason of such default, and the sum so levied shall be paid to and be receivable by the said accountant-general under the direction of the court.

Rule of Court.—Where default shall be made in the production of the certificate of the accountant-general the registrar shall give notice in writing to the judge of the fact of such default, and the judge may thereupon direct a warrant of execution to issue in accordance with section 5 of the act.

218.

Order of Transfer of Suit or Matter to High Court of Justice.

Whereas it appearing that the subject-matter of this suit exceeds in amount the sum of 500*l.*, it is ordered that this suit [*or matter*] be transferred to the Division of the High Court of Justice, together with the annexed certificate of the registrar of this court, showing the state of the suit [*or matter*] and the proceedings that have been had therein in this court.

By the court,

Registrar.

219.

Order in the Nature of an Injunction.

The plaintiff undertaking [by his counsel *or* solicitor] to abide by any order this court may make as to damages, in case this court shall hereafter be of

opinion that the defendant shall have sustained any, by reason of this order, which the plaintiff ought to pay: Now, therefore, C. D., the defendant in this cause, his servants, agents, and workmen, are hereby strictly enjoined and restrained from pulling down or suffering to be pulled down the house being Number 16, Blank Street, Islington, in the county of Middlesex, and from selling the materials whereof the said house is composed [*or* from entering into any contract or contracts, and from accepting, drawing, indorsing, or negotiating any bills or bill of exchange, notes or note, or written securities or security, in the name of the partnership firm of , and from contracting any debts or debt, and buying and selling any goods, and from making or entering into any verbal or written promise, agreement, or undertaking, and from doing or causing to be done any acts or act in the name or on the credit of the said partnership firm, or whereby the said partnership firm can or may in any manner become or be made liable to or for the payment of any sums or sum of money, or for the performance of any contract, promise, or undertaking, *or, as the case may be*], until the day after the day upon which the cause shall be heard, or until further order [*or* until the day of , upon which day this court will consider whether this order shall be further continued].

Dated this day of .

J. S., judge.

If you the said C. D., [your servants, agents, or workmen,] act in disobedience to this order, you the said C. D. will be liable to be committed by this court and also be liable to have your estate sequestered.

220.

Notice of Application for Committal.

Take notice that the plaintiff A. B. will on the day of 18 apply to this court for an order for your committal to prison for having disobeyed the order of this court made on the day of 18 enjoining and restraining you [*or* for having neglected to obey the order made on the day of 18 requiring you] [*here set out the mandatory part of the order*]: and further take notice that you are hereby required to attend the court on the first-mentioned day to show cause why an order for your committal should not be made.

Dated this day of 18 .

E. F., registrar.

To C. D., the defendant.

221.

Order of Committal for Breach of an Order in the Nature of an Injunction.

Whereas by an order of this court, dated the day of 18 [*here recite the order*]: Now, upon the application of the plaintiff, and upon hearing the defendant [*or if the defendant does not appear*, reading the affidavit of X. Y., *or where service has been by bailiff*, of L. M., a bailiff of this court, *or* the county court of holden at , showing, *or* being satisfied on oath, that a copy of the said order and notice of this application have been severally served upon the defendant C. D.], and upon reading the affidavit of, &c. [*enter evidence*], the court being of opinion, upon consideration of the facts disclosed by the said affidavit [*or affidavits*], that the said defendant C. D. has been guilty of a contempt of this court by a breach of the said order, doth order that the said defendant C. D. do stand committed to [*here insert prison used by the court*] for his said contempt.

D.C.C.

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222.

Order of Committal for Neglect to obey Order.

Whereas by an order of this court, dated the day of 18 [*here recite the order*]: Now, upon the application of the plaintiff, and upon hearing the defendant, [*or if the defendant does not appear, reading the affidavit of X. Y., or, where service has been by bailiff, the indorsement of L. M., a bailiff of this court, or the county court of holden at , showing, or being satisfied on oath, that a copy of the said order and notice of this application have been severally served upon the defendant C. D.,*] and upon reading the affidavit of, &c. [*enter evidence*], the court being of opinion, upon consideration of the facts disclosed by the said affidavit [*or affidavits*], that the said defendant C. D. has been guilty of a contempt of this court by neglecting to obey the said order, doth order that the said defendant C. D. do stand committed to [*here insert prison used by the court*] for his said contempt.

223.

Warrant of Committal.

To the high bailiff and others the bailiffs of the said court and all peace officers within the jurisdiction of the said court, and to the governor or keeper of the [*here insert prison used by the court*].

Whereas by an order bearing date the day of it was ordered that the defendant C. D. should stand committed to prison for contempt of this court:

These are therefore to require you forthwith to arrest and apprehend the defendant C. D., and him safely convey and deliver to the governor or keeper of the [*prison used by this court*], and you, the said governor or keeper, to receive the defendant C. D. until further orders of this court.

Dated this day of 18 .

E. F., registrar of the court.

224.

Notice of Application for Discharge from Custody.

Take notice that I intend on the day of 18 , to apply to this court [*or the registrar of this court*] to discharge me from custody, I being desirous of clearing my contempt.

Dated this day of 18 .

C. D., defendant.

To A. B., plaintiff.

225.

Order of Discharge from Custody.

Upon application made this day of by for the defendant, who was committed to prison for contempt, by order of this court dated the day of 18 , and upon reading the affidavit of the defendant, filed the day of 18 , showing that he is desirous of clearing his contempt, and upon hearing the plaintiff [*or if no one appears for plaintiff, then* upon being satisfied that notice of this application has been duly served upon the plaintiff], this court [*or I, the undersigned registrar of this court,*] do hereby order that the said defendant be discharged out of the

custody of the governor [or keeper] of [here insert name of prison] as to the said contempt, but not as to the costs of the said contempt.

Dated this day of 18 .

E. F., registrar of the court.

226.

Affidavit, under 30 & 31 Vict. c. 142, s. 24.

In the county court of holden at

In the matter of "The County Courts Act, 1867," and of [add the title of the particular trust, as "the trusts of a certain indenture of mortgage, dated the day of , and made between A. B. and C. D."]

I, C. D. of [address and description], make oath and say as follows:—

1. *State place for service, as*—My house being is the place where I am to be served with any notice or application relating to the trust fund hereinafter mentioned.

2. *State the amount of money or stock proposed to be paid, or transferred, or security deposited in trust to attend the orders of the court, as* Under the provisions of the said act, I desire to pay into the Post Office Savings Bank the sum of hereinafter mentioned.

3. *Set out a short description of the trust and of the instrument creating it, as* By the indenture before mentioned a certain messuage situate at , with the appurtenances, was mortgaged by the said A. B. to me, my heirs and assigns, for securing to me the repayment on the day of 18 , of the sum of £ , with interest for the same at the rate of £ per cent. per annum, and the said indenture contained a power of sale in case of default in payment, and it was by the said indenture declared that the moneys to arise from any such sale should, after retaining thereout the expenses of executing the said power, and the said principal money and interest, be paid to the said A. B., his heirs or assigns.

The said A. B. died on or about the day of and by his will, dated the day of , appointed E. F. of*, executor thereof, and devised the said hereditaments, subject to the said mortgage, unto G. H. of*, and J. K. of*, in trust for the said E. F., for his life, and after his death upon certain trusts for sale, and for the division of the proceeds amongst the following persons, namely, the testator's son M. N. of*, and his children or child, and the testator's daughter O., the wife of P. Q. of*, and her children or child.

*Here insert present address and description. If the address of any person interested be unknown to the trustee, this fact must be set forth in the affidavit.

The said E. F. proved the said will in [state in what court], and is still living.

The said G. H. never acted in the trusts of the said will, &c.

On or about the day of , I sold the said hereditaments, by public auction, to X. Y. of [address and description], at the price of £ .

After retaining out of the said £ the costs of sale, and the sum of , being the total amount of principal moneys and interest due upon the said mortgage, and the sum of £ , being the costs of paying the fund into court, a balance of £ now remains in my hands, and the sum of £ , which I desire to pay into the Post Office Savings Bank, in trust to attend the orders of this court, is the said balance of £ .

4. *State the names of the persons interested in, or entitled to, the fund, to the best of the trustee's knowledge or belief, as*—

To the best of my knowledge and belief, the said G. H. and J. K., as such trustees as aforesaid, and the said E. F., M. N. and his children or child [stating, if known, their names], and O. P. and her children or child [stating, if known, their names], are the only persons interested in the said fund.

5. *Add submission to answer inquiries, as*—

I submit to answer all such inquiries relating to the application of the said fund of £ as the court may think proper to make or direct.

Sworn at, &c.

227.

Petition by Person interested in Funds in Court.

In the matter of "The County Courts Act, 1867," and

In the matter of an affidavit by E. F. of and G. H. of filed the
day of 187 .

[*State shortly the nature of the trust, as, e.g.:—*]

Showeth

1. That C. D., of , by his will dated the day of , bequeathed to the said E. F. and G. H., his trustees named therein, all his residuary personal estate, on trust to pay the dividends and income thereof to his wife for her life, and after her death to divide the said trust funds among his children equally.

2. That the said E. F. and G. H. on the day of 187 paid into this court the £ , being, as they allege, the balance of the said trust funds remaining in their hands at that date.

3. That your petitioner claims, as one of the children of the above-named C. D., to be entitled to one-fourth share of the said trust funds.

4. That the said E. F. and G. H. have credited themselves with certain payments which they were not authorized to make.

Your petitioner prays

1. That the accounts of the said E. F. and G. H., as such trustees as aforesaid, may be taken by this court.

2. That the requisite directions may be given for ascertaining the share of your petitioner in the said trust funds and paying the same to him.

3. That the said E. F. and G. H. may be ordered to pay the costs of this petition.

[*or* 1. That under the will of C. D., late of deceased, your petitioner is entitled for his own benefit for his life to the income of the funds paid into court in this matter by E. F. and G. H. ; your petitioner therefore prays

1. That such income may be to be paid to him for his life.]

Where the application is for the income for life only of the trust funds, the persons interested or claiming to be interested in the capital need not be served with the application, unless the court should otherwise direct.

228.

Certificate in case of Money.

In the matter of the [*trusts of*].

I hereby certify, that [*state name, address, and description of party making the application*] has this day filed with me, the registrar of this court, an affidavit entitled as above mentioned, with reference to a trust fund or sum of therein mentioned, which sum, as therein stated, he desires to pay into my name as such registrar as aforesaid into a Post Office Savings Bank, as provided by the above act.

229.

Certificate in case of Transfer of Stock.

In the county court of holden at .

(*Seal.*)

In the matter of this

I hereby certify, that [*state name, address, and description of party making application*] has this day filed with me, the registrar of this court, an affidavit entitled as above mentioned, with reference to a trust fund of

£ Bank £3 per Cent. Consolidated Annuities in the books of the governor and company of the Bank of England, which, as therein stated, he desires to transfer into the names of the treasurer and of the registrar of this court [*or the superintendent, &c.*], as provided by the above act.

Dated this day of 18 .

Registrar of the court.

230.

Acknowledgment of filing of Receipt or Transfer Ticket.

In the county court of holden at .
(Seal.)

In the matter of this

I hereby acknowledge, that [*state the name, address, and description of the party giving to the registrar the receipt of the Post Office Savings Bank, in the case of money, or the transfer ticket in the case of stock,*] has this day delivered to me, the registrar of the court, a receipt dated [*name of officer of the Post Office Savings Bank*], for the sum of £ , stating that [*state receipt*] [*or, a transfer ticket of the governor and company of the Bank of England*], stating that [*state as in ticket*].

Registrar of the court.

231.

Certificate of Deposit of Security.

In the county court of holden at .
(Seal.)

In the matter of this

I hereby certify that [*state the name, address, and description of the party depositing with the registrar the security*], has this day deposited with me, the registrar of this court, in the name of myself and the treasurer [*here state the nature of the security deposited*].

Registrar of the court.

232.

Notice of Payment into Post Office Savings Bank or of Transfer of Stock or Deposit of Security.

In the county court of holden at .
No.
(Seal.)

In the matter of this

Take notice that on the day of [*state name, address, and description of party who has paid in the money*] under the said act paid into the Post office Savings Bank at in the name of me, the registrar of this court, the sum of £ , and in his affidavit filed in this court on the day of shortly described the instrument creating the trust, and stated the names of the persons interested in or entitled to the fund, to the best of his knowledge and belief, as follows; that is to say [*state from the affidavit the paragraph containing the names of the persons interested or entitled*] [*or, "transferred into the names of of , and of me, the registrar of this court, in the books of the governor and company of the Bank of England, the sum of £ Bank £3 per Cent. Consolidated Annuities, in trust to attend the orders of this court, or deposited with me in the names of of and of me, the registrar of this court, in trust to attend the orders of this court [here describe security]."*]

And further, take notice, that any person interested in or entitled to the said fund may apply to this court respecting the investment, payment out, or distribution of the fund, or of the income thereof, according to the practice of the court.

Registrar of the court.

233.

Notice to Treasurer.

In the county court of holden at .
No.
(Seal.)
In the matter of this
Take notice that on the day of [state name, address, and description of party who has deposited the security] under the said act deposited with the registrar of this court, in the names of yourself and myself, in trust to attend the orders of this court [here describe security].
Registrar of the court.
To E. F., treasurer,
[or as the case may be.]

234.

Letter to Commissioners of Treasury as to drawing out Money.

(Seal.)
County court office,
MY LORDS,
I have the honour to request that an authority may be addressed to the postmaster-general to allow me to draw out of the Post Office Savings Bank the sum of £ [here insert the sum desired to be drawn out, adding, where the sum is not to pay interest] being the sum I am directed to draw out by order of court, dated the day of 18 .
I am, my Lords,
your obedient servant,
registrar of the county court
of holden at .

235.

Judgment Summons on Order or Judgment of a Court other than a County Court.

"The Debtors Act, 1869."
In the [title of court issuing summons].
No. of judgment summons.
Between A. B., plaintiff,
[address, description,]
and
C. D., defendant,
[present address, description, and if known, place of employment.]
Whereas the plaintiff obtained a judgment [or order] against the defendant in the division of her Majesty's high court of justice on the day of , for the sum of £ , and there is now due and payable upon the said judgment the sum of £]:

You are therefore hereby summoned to appear personally in this court at [place where court holden] on the day of 187 , at the hour of in the to be examined on oath by the court touching the means you have or have had since the date of the judgment [or order] to pay the said sum, in payment of which you have made default; and also to show cause why you should not be committed to prison for such default.

Dated this day of 187 .

Registrar of the court.

£ s. d.

Amount of judgment or order remaining due

Costs of this summons

Total sum due

236.

Affidavit where Judgment Summons is sought on an order of a Court not a County Court.

“The Debtors Act, 1869.”

In the county court of holden at

In the matter of a judgment [or order, or decree] of the division of the high court of justice [or as the case may be].

A. B., plaintiff,
[address, description,]
and

C. D., defendant,
[address, description.]

I, A. B., the above-mentioned plaintiff, make oath and say:

1. That on the day of 18 , I obtained a judgment [or order] in [here set forth the style of the court in which judgment, decree, or order obtained] against C. D., the above-named defendant, for the payment of the sum of

2. That there is still due on the said judgment [or order] the sum of .

Sworn at
&c.

A. B.

237.

Order of Commitment on an Order or Judgment of a Court other than a County Court.

“The Debtors Act, 1869.”

In the [title of court ordering committal].

No. of plaint.
No. of judgment summons.
No. of order.

Between A. B., plaintiff,
and
C. D., defendant.

To the high bailiff and others the bailiffs of the said court and all peace officers within the jurisdiction of the said court, to the governor or keeper of the [prison used by the court].

Whereas the plaintiff obtained a judgment [or order] against the defendant in the division of her Majesty's high court of justice [or as the case may be] on the day of , for the sum of £ , and there is now due and payable upon the said judgment the sum of :

And whereas a summons was, at the instance of the plaintiff, duly issued out of this court, by which the defendant was required to appear personally at this court on the day of 187 , to be examined on oath touching the means he had then or had had since the date of the judgment [*or order*] to pay the said sum, which summons was proved to this court to have been personally and duly served on the defendant:

And whereas, at the hearing of the said summons, it has now been proved to the satisfaction of the court that the defendant now has [*or has had*] since the date of the judgment [*or order*], the means to pay the sum in respect of which he made default as aforesaid, and has refused [*or neglected*], [*or then refused or neglected*] to pay the same.

Now, therefore, it is ordered, that the defendant shall be committed to prison for days, unless he shall sooner pay the sums, in payment of which he has so made default, together with the prescribed costs hereinafter mentioned, or shall file such affidavit as is mentioned in Order XIX., Rule 20, of "The County Court Rules, 1875."

These are, therefore, to require you the said high bailiff, bailiffs, and others, to take the defendant, and to deliver him to the governor or keeper of the [*prison used by the court*], and you the said governor or keeper to receive the defendant, and him safely keep in the said prison for days from the arrest under this order, or until he shall be sooner discharged by due course of law.

Given under the seal of this [*insert date of order*] day of 187 .

E. F.,
Registrar of the court.
£ s. d.

Amount of judgment or order remaining due	..	_____
Costs of judgment summons and poundage on this order		_____
Amount upon the payment of which the prisoner is to be discharged.. 		_____

This order *remains in force one year* from the date hereof.

238.

Affidavit.

"The Debtors Act, 1869."
In the county court of holden at .
Between A. B., plaintiff,
and
C. D., defendant.

I, C. D., of make oath and say,—

1. That under "The Debtors Act, 1869," an order for my committal was made by the above court [*or the county court of holden at*], for making default in payment of £ , due from me in pursuance of an order [*or judgment*] of the [*here insert the court in which order or judgment was given*].
2. That on the day of 18 , I was adjudicated a bankrupt by the [*here insert the court by which adjudication was made*].
3. That the order of adjudication was published in the London Gazette on the day of 18 .
4. That the debt, in respect of which the above order [*or judgment*] was given, was provable under the bankruptcy.
[*or*
2. That my affairs are in course of liquidation [*or have been liquidated*] by

arrangement under section 125 of "The Bankruptcy Act, 1869," and that the debt in respect of which the above order [*or* judgment] was given was included in the statement produced to the meeting.

or 2. That I have entered into a composition with my creditors under the provisions of section 125 of "The Bankruptcy Act, 1869," and that the debt in respect of which the above order [*or* judgment] was given was inserted in the statement produced to the meetings of my creditors.

3. That the special resolution mentioned in section 125 of "The Bankruptcy Act, 1869," [*or* the extraordinary resolution mentioned in section 126 of "The Bankruptcy Act, 1869"], was filed in the [*here insert name of court*] on the day of].

Sworn at

C. D.

239.

Certificate by Registrar of Bankruptcy of Judgment Debtor.

"The Debtors Act, 1869."

In the county court of holden at
Between A. B., plaintiff,
and
C. D., defendant.

I hereby certify that the defendant who was committed to your custody by virtue of an order of commitment under the seal of this court [*or* the county court of holden at], bearing date the day of 187 , has filed an affidavit in this court, stating that he is a bankrupt [*or* has had his affairs liquidated by arrangement, or has entered into a composition with his creditors]; and that the defendant may, in respect of such order, be forthwith discharged out of your custody.

Given under the seal of the court this day of 187 .
Registrar.

To the governor or keeper.

240.

Notice to a Respondent under "The Agricultural Holdings (England) Act, 1875."

In the county court of holden at
"The Agricultural Holdings (England) Act, 1875."
Between A. B., appellant,
and
C. D., respondent.

Take notice that you are required within eight days of the delivery of this notice to you, to file in court a statement, signed by you or your solicitor, in reply to the grounds of appeal sent herewith, and that your statement must disclose the following matters:—

Order
XXXIV.
Rule 3.

- (1) Whether you dispute the validity in law of all or any and which of the grounds of objection to the award:
- (2) Whether you dispute the truth in fact of all or any and which of the grounds of appeal:
- (3) Whether you admit the validity in law and truth in fact of all or any and which of the grounds of appeal:
- (4) Whether you pray that the case may be remitted to be re-heard:
- (5) Your name and address, and that of your solicitor, if the statement be delivered through a solicitor.

Dated this of 187 .

Registrar of the court.

To the above-named respondent.

241.

In the county court of holden at .
In the matter of the County Courts Acts, and
In the matter of "The Agricultural Holdings (England) Act, 1875," and
In the matter of an appeal by A. B.

The day of 187 .

Order XXIV.
Rule 3.

Upon the hearing this day of an appeal by [*name and description of appellant*] against an award dated [*state date*] given under the hand of [*referee's name*], whereby [*state shortly the substance of the award*], and on reading the said award, and on hearing the said A. B. and C. D. the respondents.

It is ordered that [*state order, e. g.:—*] the said A. B. and C. D. do within fourteen days of the date of this order pay to the said A. B. the sum of £ and £ for costs, and in default of such payments at the time aforesaid the said A. B. may proceed to execution.

242.

Undertaking in Writing by Defendant to perform Contract.

"Employers and Workmen Act, 1875."

In the county court of holden at .

(Seal.)

**Between A. B. plaintiff,
and
C. D. defendant.**

Whereas it has been found by this court on the _____ day of _____ 18____, that the defendant had broken the contract for the breach of which he was summoned.

And whereas the court would have awarded to the plaintiff the sum of £ by way of damages suffered by him in consequence of such breach, and would have ordered him to have paid such sum, but that the defendant was willing to give security for the performance by him of so much of the contract as remains unperformed.

Now, therefore, I, the undersigned defendant, and we the undersigned sureties [or the undersigned surety], do undertake that the said defendant will perform so much of the said contract as remains unperformed, that is to say [here set out so much of the contract as remains to be performed].

And I the said defendant, and we [or I] the said sureties [or surety] hereby severally acknowledge ourselves bound to forfeit to A. B., the plaintiff, the sum of pounds and shillings in case the said defendant fails to perform what he has hereby undertaken to perform.

(Signed, *when not taken orally*) C. D. defendant.

F. F. } Sureties.
G. H. }

Taken [orally] before me this day of 187 .

Registrar.

NOTE.—Where the undertaking is given orally, strike out the words “undersigned” where they occur, and insert the word “orally” after “taken.”

ADMIRALTY FORMS.

243.

Præcipe on Entry of Complaint.

Admiralty Jurisdiction.

In the county court of holden at .

I, L. M., solicitor, hereby desire to commence an action for [*state the nature of the suit*], on behalf of [*state name, address, and description of plaintiff*], against [*if the owner or owners be not known, state the owner or owners unknown of the property to which the action relates, describing its name and nature and where it then is; if known, state name, address, and description of party proceeded against, the name and nature of the property to which the suit relates, and where it is*], in the sum of [*state the sum in letters*] pounds. And I consent that all instruments and documents in the said action may be left for me at [*state address*], [*add, where so desired*], and I require the summons to be served by the bailiff of the court].

Dated the day of 18 .

[*To be signed by the party, his solicitor,
or his clerk for him.*]

244.

Præcipe for Permission for Suit to be heard at a Special Place.

Admiralty Jurisdiction.

In the county court of holden at .

[*Title of Action.*]

I, X. Z., solicitor, do pray that permission may be granted for the hearing of this suit at [*here state the name of the place at which and description of the building in which it is desired that the sitting should be held, and if the building is not one in which the county court ordinarily sits, add*], and I undertake to hire the use of the said building at my expense, to be allowed as costs in the suit if the court shall allow thereof].

Dated this day of 18 .

[*To be signed by the party, his solicitor,
or his clerk for him.*]

245.

Summons.

Admiralty Jurisdiction.

In the county court of holden at .

(Seal.)

Whereas an action for [*state the nature of the action*] has been instituted in this court, on behalf of A. B. of , against the owner or owners unknown of the [*state description of the vessel*], called the [*name of vessel*], (whereof C. D. is now or lately was master), [*where action is against owner or owners unknown of vessel and freight add, and the freight due for the transportation of the cargo now or lately laden therein; or where the action is against the owner or owners unknown of vessel, cargo, and freight, add instead thereof*], and the cargo now or lately laden therein, together with the freight due for the transportation thereof], in the sum of [*state sum in letters*] pounds.

You are hereby summoned to enter an appearance in the said action within four clear days of the service hereof.

You are also warned that if you do not enter an appearance as aforesaid, the judge of this court will proceed to hear and determine the said action, or to make such orders therein as to him shall seem fit.

Dated this day of 18 .

Registrar of the court.

To the owner or owners of the [*state description and name of vessel*], and all persons who have or claim to have any right, title, or interest in the said vessel.

N.B.—The solicitor for A. B. is of [*here state the address given in the præcipe*].

246.

Summons.

Admiralty Jurisdiction.

In the county court of holden at .

A. B., plaintiff [*address and description*].

C. D., defendant [*address and description*].

(Seal.)

Whereas an action for [*state nature of suit*] has been instituted in this court on behalf of the plaintiff against you in the sum of [*state sum in letters*] pounds.

You are hereby summoned to enter an appearance in the said action within four clear days of the service hereof.

You are also warned that if you do not enter an appearance as aforesaid, the judge of this court will proceed to hear and determine the said action, or to make such orders therein as to him shall seem fit.

Dated and sealed this day of 18 .

Registrar of the court.

To the defendant

N.B.—The solicitor for the plaintiff is of [*here state the address given in the præcipe*].

247.

Warrant of Arrest and Detention.

Admiralty Jurisdiction.

In the county court of holden at .

(Seal.)

[*Title of Action.*]

Whereas an action has been instituted in this court on behalf of A. B. of , against the owner or owners of [*state description and name of vessel or property*] in the sum of [*state sum in letters*] pounds. These are therefore to require and order you to arrest the said and to keep the same under safe arrest until you shall receive further orders from this court.

Given under the seal of the court this day of 18 .

By the court.

Registrar of the court.

To the high bailiff of the said court
and others the bailiffs thereof.

248.

Bail Bond.

Admiralty Jurisdiction.

In the county court of holden at
 [Title of Action.]

Whereas an action for has been instituted in this court on behalf of
 A. B., of , against .

Now therefore we [state names, addresses, and description of sureties]
 jointly and severally submit ourselves to the jurisdiction of the said court, and
 consent that if he [or they] the said shall not pay what may be adjudged
 against him [or them] in the said action, with costs, execution may issue forth
 against us, our heirs, executors and administrators, our goods and chattels, for
 a sum not exceeding [state sum in letters] pounds.

The bail bond was signed by the said , and the sureties, the
 day of 18 .

Before me,
 Registrar of the court,
 or one of his clerks.

249.

Order of Release.

Admiralty Jurisdiction.

In the county court of holden at
 [Title of Action.]

You are hereby authorized and directed to release the now under
 arrest of this court by virtue of its warrant, upon the payment of all costs,
 charges, and expenses attending the custody thereof.

Given under the seal of the court, this of 18 .
 By the court.

Registrar of the court.

To the high bailiff of the said court
 and others the bailiffs thereof.

250.

Præcipe to enter an Appearance.

Admiralty Jurisdiction.

In the county court of holden at
 [Title of Action.]

I, R. S., solicitor, hereby enter an appearance on behalf [state name,
 address, and description of party] in the action for [state nature of action]
 which has been instituted in this court on behalf of [state name, address, and
 description of plaintiff] against [state against whom the action is instituted].
 And I consent that all instruments and documents in the action may be
 left for me at [state address].

Dated the day of 18 .

[To be signed by the defendant, his
 solicitor, or his clerk for him.]

Notice of Hearing.

Admiralty Jurisdiction.

In the county court of holden at .

[*Title of Action.*] (Seal.)

Take notice that this action will be heard at a court to be holden on the
day of at [*here state where court is to be held*], at the hour of
o'clock in the noon.

Dated and sealed this day of 18 .

Registrar of the court.

To the plaintiff and defendant.

Order of Transfer to High Court of Justice.

Admiralty Jurisdiction.

In the county court of _____ holden at _____ .

[Title of Action.] (Seal.)

Whereas it appears that the subject of this action exceeds the limit in respect of amount of the admiralty jurisdiction of this court [*or state otherwise as the case may be*], it is ordered that this suit be transferred to the probate, divorce and admiralty division of the high court of justice, together with the proceedings that have been had therein in this court.

Given under the seal of the court this _____ day of _____ 18 ____ .

By the court.

Registrar of the court.

Order of Transfer to County Court or the High Court of Justice.

Admiralty Jurisdiction.

In the county court of holden at .
[Title of Action.] (*Seal*.)

Whereas it hath been made to appear that the action could be more conveniently prosecuted in the county court of holden at , appointed to have admiralty jurisdiction [*or in the high court of justice*], it is ordered that this action be transferred to the said court, together with the proceedings that have been had therein in this court.

Given under the seal of the court this day of 187 .

By the court.

Registrar of the court.

Judgment or Order.

Admiralty Jurisdiction.

In the county court of holden at .

[Title of Action.]

(Seal.)

It is this day adjudged that the plaintiff, A. B., of do recover against
the defendant [*or defendants*] C. D., of , the sum of pounds [*in
an action for salvage, for services rendered to the above vessel; or in an
action for towage, for services rendered in towing the said vessel; or in an*

action for necessities, for necessities supplied to the said vessel; *or in an action for wages*, for wages in respect of services rendered on board the said vessel; *or in an action for damage to cargo*, for damage caused to the cargo carried in the said vessel; *or in an action for damage by collision*, for damage caused to the said vessel by the defendant's vessel the [*the description and name of the vessel which caused the damage*]], together with the costs of this action.

And it is ordered that the defendant [*or defendants*] do pay the same to the plaintiff or his solicitor within days, [*add where the name of the defendant is known*], and that in default thereof the registrar shall upon the application of the plaintiff or his solicitor issue a warrant of execution against the vessel or property of the defendant].

Given under the seal of this court this day of 18 .

By the court.

Registrar of the court.

255.

Præcipe for a Warrant of Execution.

Admiralty Jurisdiction.

(Seal.)

In the county court of holden at .

[*Title of Action.*]

I, S. R., solicitor, do require a warrant of execution to issue against the goods of C. D., of , who was ordered by this court, on the day of 18 , to pay to the plaintiff, or myself, as his solicitor, the sum of pounds for [*here insert for what the sum was ordered to be paid*], and who has not paid the said sum as so ordered.

Dated the day of 18 .

[*Signature of solicitor.*]

256.

Warrant of Execution against the Vessel or Property of Defendant.

Admiralty Jurisdiction.

In the county of holden at .

(Seal.)

[*Title of Action.*]

Whereas on the day of 18 , the plaintiff obtained a judgment in this court against the defendant for the sum of £ for and costs: and it was thereupon ordered by the court that the defendant should pay the same to the plaintiff on the day of .

And whereas default has been made in payment according to the said order. These are therefore to require and order you forthwith to make and levy by distress and sale of the goods and chattels of the defendant, wheresoever they may be found within the district of this court (except the wearing apparel and bedding of him or his family, and the tools and implements of his trade, if any, to the value of five pounds), the sum stated at the foot of this warrant, being the amount due to the plaintiff under the said order, including the costs of this execution; and also to seize and take any money or bank notes (whether of the bank of England or of any other bank), and any cheques, bills of exchange, promissory notes, bonds, specialties, or securities for money of the defendant which may there be found, or such part or so much thereof as may be sufficient to satisfy this execution, and the costs of making and executing the same, and to pay what you shall have so levied to the registrar of this court, and make

return of what you have done under this warrant immediately upon the execution thereof.

Given under the seal of the court this day of 18 .
By the court.
Registrar of the court.

**To the high bailiff of the said court,
and others the bailiffs thereof.**

257.

Order for Transfer of Sale to High Court of Justice.

In the county court of Admiralty Jurisdiction.
holden at .

(Seal.)

[Title of Action.]

Whereas in an action instituted in this court on behalf of A. B. of
against [state name of defendant] the judge of this court has ordered [here
insert the terms of the decree or order]. And whereas the plaintiff [or de-
fendant] in the said suit is desirous that the sale of the vessel should be con-
ducted in the probate, divorce and admiralty division of the high court of
justice, and has given security for the sum of ten pounds. Now I, A. B.,
solicitor, pray that an order to transfer the proceedings for sale to the said
division of the high court of justice do issue.

Dated the day of 18 .

I hereby certify that the security above mentioned **has been duly completed.**
Registrar of the court.

I hereby order the transfer to be made as prayed.

Judge of the court.

258.

Præcipe for paying in Money.

Admiralty Jurisdiction.

[Title of Action.]

In the county court of _____ holden at _____.

I, A. B., of do pay the sum of [*state sum in letters*] pounds into court in this action at the request and by the authority of , he having agreed to pay [*or tender*] the same in settlement of the claim of the plaintiff [*or as the case may be*].

Dated the day of 18 .

[To be signed by the party, his solicitor,
or his clerk for him.]

259.

Summons to Assessors.

Admiralty Jurisdiction.

(Seal.)

In the county court of holden at
[*Title of Action.*]

You are hereby summoned to appear and serve as an assessor in this court at the on the day of 18 , at the hour of in the noon, to assist the judge of this court in the hearing and determining of this suit.

and in default of attendance you will be liable to a penalty of a sum not exceeding five pounds under section 15 of "The County Courts Admiralty Jurisdiction Act, 1868."

Dated this day of 18 .
Registrar of the court.
To
of .

260.

Order fining an Assessor for non-Attendance.

In the county court of Admiralty Jurisdiction.
holden at .
[Title of Action.]
Whereas was duly summoned to appear and serve as an assessor at a court holden at on the day of 18 , and whereas he has neglected without sufficient cause shown, to appear and serve as required: It is hereby ordered that he shall forthwith [or on the day of 18] pay to the registrar of this court a fine of £ for such neglect.
Given under the seal of the court this day of 18 .
By the court.
Registrar of the court.

261.

Admiralty Actions Book.

Pro formâ.

Date.			
Day.	Month.	Year.	
10	Feb.	1869	Action for damage by collision, instituted on behalf of A. B., of against the owner or owners, unknown, of a schooner named "The Kate," lying at within the district of the court, in the sum of 200l.
10	Feb.	1869	Solicitor for the plaintiff, Mr. L. M., of Application made for arrest; affidavit filed; warrant issued, the evidence being satisfactory.
11	Feb.	1869	Application for judge's permission for suit to be heard at
13	Feb.	1869	Permission granted.
15	Feb.	1869	Appearance entered by C. D., of solicitor for defendant, R. S., of
18	Feb.	1869	The action having been heard the court decreed that [here set forth the decree]. If any further proceedings had, they should be entered in the same manner.

ALLOWANCES TO WITNESSES.

	£	s.	d.		£	s.	d.
Gentlemen, merchants, bankers, and profes-							
sional men, <i>per diem</i> from	0	15	0	to	1	1	0
Tradesmen, auctioneers, accountants, clerks,							
and yeomen, <i>per diem</i> from	0	7	6	to	0	15	0
Artisans and journeymen, <i>per diem</i> .. from	0	4	0	to	0	7	6
Labourers, and the like, <i>per diem</i> .. from	0	3	0	to	0	4	0
Travelling expenses, sum reasonably paid, but not more than sixpence per mile, one way.							

If the witnesses attend in more than one cause, they will be entitled to a proportionate part in each cause only.

NOTE.—*It is considered to be unnecessary to give any rules with respect to taking acknowledgments of married women, as it is the duty of the solicitor employed to prepare the certificate and affidavit, and swear to the latter; and the course to be followed by the judge is laid down in the act 3 & 4 W. 4, c. 74. The only duty for the registrar to perform, beside that of swearing the solicitor to the affidavit, is that of putting his initials against all ALTERATIONS, INTERLINEATIONS, or ERASURES either in the CERTIFICATE or AFFIDAVIT.*

**A SCALE of COSTS and CHARGES to be paid to SOLICITORS in
ACTIONS under £20,**

**As well between Party and Party as between Solicitor and Client,
on and after the 2nd of November, 1875.**

**I.—In actions where the amount recovered exceeds 40s. and does
not exceed 5l.**

	s.	d.
(1.) Instructions for and preparing particulars for an ordinary summons (such particulars to be signed by the solicitor), and attending and entering plaint	3	0
(2.) Attending or acting in court (9 & 10 Vict. c. 95, s. 91) ..	10	0

For a default summons instead of item one.

(3.) Preparing affidavit, swearing and filing, including notice of mode in which payment will be accepted	5	0
(4.) Copy and service of summons, if served by plaintiff's solicitor, or his clerk, within two miles of the place of business of the solicitor	5	0
If beyond that distance, additional for every mile but not to exceed ten miles	0	6
(5.) Affidavit of service with copy of summons annexed, attending to file and entering up judgment by default	6	8

**II.—In actions where the amount recovered exceeds 5l. and does
not exceed 10l.**

(1.) Letter before action	3	4
(2.) Instructions for and preparing particulars for an ordinary summons, such particulars to be signed by the solicitor, and attending and entering plaint	6	8
(3.) Attending or acting in court (9 & 10 Vict. c. 95, s. 91) ..	15	0

For a default summons instead of item two.

(4.) Preparing affidavit, swearing and filing, including notice of mode in which payment will be accepted	6	0
(5.) Copy and service of summons, if served by plaintiff's solicitor, or his clerk, within two miles of the place of business of the solicitor	5	0
If beyond that distance, additional for every mile but not to exceed ten miles	0	6
(6.) Affidavit of service with copy of summons annexed, attending to file and entering up judgment by default	6	8

**III.—In actions where the amount recovered exceeds 10l. and does
not exceed 20l.**

(1.) Letter before action	3	4
(2.) Instructions for and preparing particulars for an ordinary summons (such particulars to be signed by the solicitor), and attending and entering plaint	6	8
(3.) Attending or acting in court (9 & 10 Vict. c. 91, s. 91) ..	15	0
(4.) Taxing costs	5	0

For a default summons instead of item two.

(5.) Preparing, swearing and filing affidavit, including notice of mode in which payment will be accepted

(6.) Copy and service of summons, if served by plaintiff's solicitor, or his clerk, within two miles of the place of business of the solicitor

If beyond that distance, additional for every mile but not to exceed ten miles

(7.) Affidavit of service with copy of summons annexed, attending to file and entering up judgment by default

Note.—[The items of charge numbered 1 and 2, and 1, 2 and 3 in the above scales may be charged in the summons in the cases to which the charges respectively apply; where the amount claimed is larger than the amount recovered, the judge may certify for costs on the scale applicable to the amount claimed if he shall think fit.]

s.

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8

SCALES of COSTS and CHARGES to be paid to COUNSEL and SOLICITORS in

ACTIONS above £20,

As well between Party and Party as between Solicitor and Client, on and after 2nd November, 1875.

	Lower Scale.*			Higher Scale.*		
	£	s.	d.	£	s.	d.
1. Letter before action	0	3	6	0	3	6
2. Instructions to sue or defend	0	6	8	0	13	4
3. Application for substituted service or service out of England	0	4	0	0	6	0
Service, sum allowed by judge.						
4. Perusing deeds and documents when long, not exceeding	—			2	2	0
5. Attendance and entering plaint, including particulars and copies, such particulars and copies being signed by the solicitor	0	13	4	0	13	4
6. Where special particulars are required under Order VIII., Rule 7, then in addition to item 5	0	6	8	0	13	4
7. Preparing affidavit and filing, including notice of mode in which payment will be accepted	0	6	8	0	6	8
8. Copy and service of summons, if served by solicitor, or his clerk, within two miles of the place of business of the solicitor	0	5	0	0	5	0
If beyond that distance, additional for every mile, but not to exceed ten miles	0	0	6	0	0	6
9. Affidavit of service with copy of summons annexed	0	5	0	0	5	0
10. Attending to file affidavit of service, including entering up judgment by default	0	3	4	0	6	8
N.B.—The total amount of these items where applicable to be entered on the summons.						

* See note at end of scale.

	Lower Scale.			Higher Scale.		
	£	s.	d.	£	s.	d.
11. Attending lodging judge's order, and preparing statement of cause of action or defence, including copies, and lodging same with registrar, if signed by attorney (sections 7 and 10 of "The County Courts Acts, 1867") ..	0	13	4	0	13	4
12. Examining and taking minutes of evidence of each witness afterwards allowed by the judge..	0	3	4	0	6	8
If more than six folios, every additional folio (whether counsel employed or not) ..	0	1	0	0	1	0
13. Drawing brief for counsel, per folio	0	1	0	0	1	0
14. Attending counsel therewith	0	3	4	0	6	8
15. Fee to counsel and clerk, sum paid not exceeding	3	5	6	5	10	0
16. If conference with counsel allowed, appointing it and attending counsel	0	6	8	0	13	4
17. Fee to counsel and clerk, on conference.. ..	1	6	0	1	6	0
18. Attending court on trial, with counsel	1	1	0	1	10	0
19. Attending court and conducting cause, where no counsel employed	2	0	0	2	0	0
20. Where judgment is deferred, attending court to hear it	0	6	8	0	6	8
21. Plans, charts, or models where necessary for use at hearing, by special order on taxation, not exceeding	2	2	0	2	2	0
22. Witnesses' expenses, according to scale in force.						
23. Attending taxing costs	0	6	8	0	6	8
24. Letters to be allowed once only in action or matter	0	5	0	0	5	0
25. Serving any notice on a party or his solicitor, including copy thereof	0	3	6	0	5	0
26. If served beyond three miles of registrar's office, reasonable expenses for travelling and maintenance.						
<i>Occasional Costs.</i>						
27. Transfer, lodging order of	0	10	0	0	16	8
28. Notice to produce, notice to admit,—notice of application for a new trial, or to set aside proceedings,—including copies or duplicate originals and service,—and notice of special defence and copies, including particulars, and copies in cases of set-off, and attending registrar of the court therewith, such notices, particulars, and copies being signed by the solicitor	0	6	8	0	13	4
29. On receipt of notice to produce or admit or to answer interrogatories perusing same, and advising thereon	0	6	8	0	13	4
30. All applications and motions, or attending court to answer applications and motions under Order XIII.	0	6	8	0	6	8
31. Drawing interrogatories and answer thereto under last-mentioned order	0	5	0	0	5	0
If more than five folios, per folio	0	1	0	0	1	0
32. Attending examination under Order XXIV. ..	0	6	8	0	6	8

	Lower Scale.			Higher Scale.		
	£	s.	d.	£	s.	d.
33. Attending inspecting documents.. ..	0	6	■	} 0 6 8 per hour.		
34. Mileage, one way, from the solicitor's place of business to place of inspection of documents, for each mile, not exceeding, unless by special order of judge, in the whole 20 miles ..	0	1	0			
35. All necessary affidavits, not exceeding five folios, including filing, each	0	5	0	0	5	0
36. For every additional folio.. ..	0	1	0	0	1	0
37. Oath; sum paid.						
38. Attending court for an order to bring up a prisoner to give evidence	■	4	0	0	4	0
39. Attending court to support or oppose motion for any application, or where no counsel employed ..	0	13	4	1	1	0
40. Attending in the last-mentioned cases with counsel ..	0	10	0	0	13	4
41. Fee to counsel and clerk in such cases sum paid (not exceeding).. ..	1	■	6	2	6	6
42. All necessary applications and motions to the court not otherwise provided for, including instructions and all attendances	0	6	8	0	13	4
43. Solicitor's travelling expenses to attend court, one way, not exceeding 20 miles, per mile ..	■	1	0	0	1	0
44. Where in the opinion of the registrar the solicitor cannot return the same night, in addition to the above mileage	1	11	6	1	11	6
45. Any attendance at the office of the registrar, or any attendance upon the opposite party, which the registrar may, upon taxation, think was necessary	0	3	4	0	6	8
46. All costs for letters, and for searches for certificates of births, marriages and deaths, which the registrar may upon taxation think necessary such sum as the registrar shall deem reasonable.						
47. Fees and copies; (sum paid).						
48. All necessary copies, per folio	0	0	4	0	0	4
49. Preparing admission by defendant	0	8	4	0	6	8
50. Drawing accounts and other documents not included in the foregoing costs, but allowed upon taxation of costs to be necessary, per folio ..	0	0	8	0	0	8
51. For perusing and adapting old abstracts of title, per sheet	0	3	4	0	3	4
52. Drawing abstracts of additional deeds and documents per sheet	0	6	8	0	6	8
53. For preparing conditions and contracts of sale, and fair copy, per folio	0	0	8	0	0	8
54. Where condition and contract are not submitted to counsel, in addition to the above there shall be allowed for perusing abstracts, every three sheets	0	3	4	0	3	4
55. Where conditions and contracts are to be settled by counsel, instructions to counsel to accompany abstract, and attendance therewith, or letter	0	6		0	13	4

	Lower Scale.			Higher Scale.		
	£	s.	d.	£	s.	d.
56. Fee to counsel and clerk.						
57. Attending sale	1	1	0	2	2	0
58. Where by any proceeding taken by the opposite party it becomes necessary to advise or receive instruction from a client in the progress of an action or matter, for each attendance ..	0	6	8	0	13	4
59. Where in the course of an action or matter a party suing or sued in a fiduciary or representative character necessarily incurs costs not allowed upon taxation between party and party, the registrar shall apply to the judge to allow such sums as he may think fit out of any funds in court applicable to that purpose.						
<i>Case.</i>						
<i>Sections 11 or 12 of the County Courts Act, 1867.</i>						
60. Drawing case, per folio	—			0	1	0
61. Perusing and settling case prepared by the other party in action, per folio	—			0	0	6
62. Drawing briefs for counsel to argue case ..	—			1	1	0
63. Attending counsel with brief	—			0	3	4
64. Fee to counsel upon brief, sum paid not exceeding	—			3	5	6
65. Attending court when counsel employed ..	—			1	1	0
66. Attending court when counsel not employed ..	—			0	15	0
<i>Costs of the Day on Adjournment of Cause.</i>						
67. Solicitor for attending court where no counsel employed	0	15	0	0	15	0
68. Attending with counsel	0	10	0	0	13	4
69. Refresher fee to counsel and clerk	1	3	6	1	3	6
70. Witnesses' expenses, same as on trial.						
<i>Arbitration.</i>						
71. Attending reference, without counsel, for each sitting	1	0	0	1	0	0
72. Attending reference, with counsel, for each sitting	0	15	0	0	15	0
73. Where sitting exceeds four hours, for every additional hour	0	6	8	0	6	8
74. Fee to counsel and clerk, for each sitting, sum paid, not exceeding	2	4	6	2	4	6
75. Witnesses' expenses, same as on trial.						
<i>Note.</i> —Cost of counsel and solicitor, or of a solicitor on attending in reference, shall not be allowed without the order of the judge; nor shall the costs of more than one sitting be allowed without the order of the judge.						
<i>New Trial.</i>						
76. Costs to be allowed on the same scale as on the original trial.						

	Lower Scale.			Higher Scale.		
	£	s.	d.	£	s.	d.
<i>Costs on Appeals.</i>						
77. Preparing notice of appeal, including copies and service				0	10	0
78. paying money into court as deposit on appeal, including notice and service thereof	0	3	0	0	3	0
79. Notice of nature and particulars of proposed security, including copies and service ..	0	5	0	0	5	0
80. Preparing case including copies	0	10	0	1	1	0
81. Attending judge to sign, or to settle and sign ..	0	6	8	0	6	8
82. Transmitting and depositing copies of case to party, and with registrar	0	5	0	0	5	0
83. Transmitting case and copies to Court of Appeal, including notice thereof to successful party ..	0	7	0	0	7	0
84. Application to judge for leave to proceed on the judgment	0	5	0	0	7	0
85. Depositing order of Court of Appeal, including notice and service thereof	0	3	4	0	6	8
<i>Order X.—Counter or other Claim.</i>						
Any additional costs occasioned by a counter or other claim shall be taxed, and may be allowed as if such claim had been made by a separate action, except that no item shall be allowed for any charge which has been allowed in respect of the original action or the defence thereto.						

The registrar is to tax the bills of costs of defendants upon the lower scale when the subject matter does not exceed 100*l.* and upon the higher when it exceeds 100*l.*, or the action is brought under either section 11 or 12 of the County Courts Act, 1867; and the bills of costs of plaintiffs upon the lower scale when the sum recovered or the subject matter does not exceed 100*l.*, and upon the higher when the sum recovered or the subject matter exceeds 100*l.*, or the action is brought under either section 11 or 12 of the County Courts Act, 1867, unless in either case the judge shall otherwise order.

Costs in actions under the County Courts Act, 1856, s. 23, shall be taxed according to the scale of taxation used in the high court of justice, so far as it is directly applicable; and where it is not so applicable, the principle of that scale shall be followed.

As to special allowances of costs, see Order XXXVI.

We, GEORGE LAKE RUSSELL, JOHN BURY DASENT, JOHN WORLLEDGE, RUPERT ALFRED KETTLE, and WILLIAM FURNER, being judges of county courts appointed to frame rules and orders for regulating the practice of the courts, and forms of proceedings therein, under the 32nd section of "The County Courts Act, 1856," have by virtue of the powers vested in us thereby and of all other powers enabling us in this behalf, framed the foregoing rules and scales of costs, and we do hereby certify the same to the Lord Chancellor accordingly.

G. L. RUSSELL.
J. B. DASENT.
J. WORLLEDGE.
RUPERT KETTLE.
W. FURNER.

I approve of these rules and costs to come into force in all county courts on the second day of November, 1875.

CAIRNS, C.

TREASURY ORDER REGULATING COURT FEES, 1875.

In pursuance of the powers given by "THE COUNTY COURTS ACT, 1856," "THE COUNTY COURTS ACT, 1865," "THE COUNTY COURTS ACT, 1867," "THE COMPANIES ACT, 1867," and "THE COUNTY COURTS ACT, 1875," and of all other powers enabling us in this behalf, we, the undersigned, two of the commissioners of her Majesty's Treasury, whose names are hereunto subscribed, do hereby, with the consent of the Lord Chancellor, order that, on and after the second day of November, 1875, the several fees, or sums in the name of fees, specified in the schedules hereunder written shall be taken on the proceedings therein mentioned, in lieu of all other fees for the proceedings set forth; and that the fees so authorized to be taken, with the exception of the fees for keeping possession of goods, and with the exception of the fees mentioned in schedule (B.), shall be received by the registrars of the different county courts, and shall be accounted for and paid over by them to the treasurers of their respective courts, or where there is no treasurer, the superintendent of county courts, and that the fees set forth in schedule (B.) shall be received by the registrars for the use of themselves and the high bailiffs, according as the duties are to be performed by the registrars or high bailiffs.

MAHON.

ROW. WINN,

I approve of the annexed schedules of fees.

CAIRNS, C.

26th October, 1875.

[An order or rule referred to in the following schedules shall mean the order or rule so numbered in the County Court Rules, 1875.]

SCHEDULE (A.)

For every plaint or petition, one shilling in the pound.

Where the claim or demand exceeds forty shillings, and an ordinary summons is to be served by bailiff, an additional fee of one shilling.

Where in any case the number of defendants shall exceed three, an additional fee of one shilling for each defendant above three.

No fee shall be payable on any application for a new trial, or to set aside proceedings, or for a summons in an interpleader.

For entering judgment by consent under sects. 8 or 9 of "The County Courts Act, 1850," or under a default summons, one shilling in the pound on the amount claimed in the summons.

For every hearing two shillings in the pound.

In all cases where the defendant shall either personally, or by his solicitor or agent, admit the claim, one half of the fee paid by the plaintiff for the hearing of the plaint shall be returned to the plaintiff by the registrar of the court, although the court may have been required to decide upon the terms and conditions upon which the claim is to be paid.

An additional hearing fee shall be taken for every new trial.

The hearing on interpleader shall not be prepaid, but shall be estimated on the amount of the money or the value of the goods claimed, which value, in case of dispute, shall be assessed by the judge, who, at the hearing, shall direct by whom and when and how such fee shall be paid.

No fee shall be payable for hearing any application for a new trial, or to set aside proceedings.

For issuing every warrant against the goods, eighteenpence in the pound on the amount for which such warrant shall issue.

For issuing every warrant to deliver possession of tenements, eighteenpence in the pound.

For every judgment summons under the Debtors Act, 1869, threepence in the pound on so much of the amount of the original demand as, in obedience to the order of the court, should have been paid at the time of the issue of the summons.

Where such last-mentioned amount does not exceed twenty shillings, an additional fee of sixpence; and where such amount does exceed twenty shillings, an additional fee of one shilling.

For every hearing of the matters mentioned in such judgment summons, sixpence in the pound on the amount upon which the fee on the summons is calculated.

For issuing every order of commitment, eighteenpence in the pound on the amount upon which the fee on the summons is calculated.

For keeping possession of goods till sale, per day (including expenses of removal, storage of goods, and all other expenses), not exceeding five days, sixpence in the pound on the value of the goods seized, to be fixed by appraisement in case of dispute.

In all plaints, all poundage, except where otherwise specified in this schedule, shall be estimated on the amount of the claim.

In plaints under sections 11 and 12 of "The County Courts Act, 1867," poundage shall be estimated as upon a claim for a sum of twenty pounds.

In replevins, all poundage, except as aforesaid, shall be estimated on the amount of the alleged rent or damage, to be fixed by the registrar.

In plaints for the recovery of tenements when the term has expired or been determined by notice, all poundage, except as aforesaid, shall be estimated on the amount of the weekly, monthly, or yearly rent of the tenement, as such tenement shall have been let by the week or by the month, or for any longer period; and if no rent shall have been reserved, then on the amount of the half-yearly value of the tenement, to be fixed by the registrar.

Where a claim for rent or mesne profits, or both is added to a plaint for the recovery of a tenement, an additional poundage shall be taken on the amount or amounts so claimed, but where thereby the total amount on which poundage would be taken shall exceed twenty pounds, the poundage shall be estimated on twenty pounds only.

In plaints for the recovery of tenements for non-payment of rent, all poundage, except as aforesaid, shall be estimated on the amount of the half-yearly rent of the tenement.

Where a counter or other claim is made under Order X. of the County Court Rules, 1875, the same fees shall be taken as upon the entry and hearing of a plaint.

In proceedings under "The Merchant Shipping Act, 1854," "The Literary and Scientific Institutions Act, 1854," and "The Metropolitan Buildings Act, 1855," the poundage shall be estimated upon the amount in dispute, and if no amount is in dispute, or if the amount in dispute is not ascertained, then as upon a claim for a sum of twenty pounds.

In proceedings under "The Succession Duty Act, 1853," the poundage shall be estimated upon the amount in dispute.

In proceedings under "The Friendly Societies Act, 1875," or under any act giving the court jurisdiction in any matter, such other act not being a County Court Act, the poundage shall be estimated upon the amount in dispute.

In the above cases where the poundage would, but for this direction, be estimated on an amount exceeding twenty pounds, it shall be estimated at twenty pounds only.

In every case where the poundage cannot be estimated by any rule in this schedule, it shall be estimated on twenty pounds.

All fractions of a pound, for the purpose of calculating poundage, shall be treated as an entire pound.

No increase of fees shall be made by reason of there being more than one plaintiff or defendant, except as before directed, where the number of defendants exceeds three.

	£	s.	d.
For every sitting under the "Ballot Act, 1872"	2	0	0
For taking the acknowledgment of a married woman, where only one	1	0	0
And 10s. for every additional woman.			
For a warrant to replevy	0	2	6
For a replevin bond, where the alleged rent or damage does not exceed 20l... .. .	0	10	6
For a replevin bond, where the alleged rent or damage exceeds 20l..	1	1	0
For notice to distrainor	0	2	6
For every subpoena to be served in a home district; if served within two miles of court house	0	1	0
For every mile beyond two	0	0	6
but the total fee to be taken is in no case to exceed 3s.			
For every subpoena to be served in a foreign district	0	3	0
For every sitting under the Agricultural Holdings (England) Act, 1875	1	0	0

Proceedings under the Industrial and Provident Societies Act, 1862.

	£	s.	d.
For every petition presented to a court, under section 17 of the above act	1	0	0
For every order for winding-up	1	0	0

The Companies Act, 1862.

For every sitting to take evidence	2	0	0
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The Companies Act, 1867.

For every sitting before the judge	1	0	0
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SCHEDULE (B.)

PART I.

Fees where the Court exercises Jurisdiction under The County Courts Act, 1867, The County Courts Act, 1875, The Supreme Court of Judicature Act, 1873, or the Agricultural Holdings (England) Act, 1875.				
<i>Registrar's Fees.</i>		£	s.	d.
For examining, allowing, and filing every affidavit under section 1 of County Courts Act, 1875, where the claim does not exceed 40s.		0	1	0
For the like, where the claim exceeds 40s.		0	2	0
For entering writ under sections 7 or 10 of the County Courts Act, 1867, and sending notice to parties of day of trial, &c. . .		1	1	0
Taxing costs in such actions		0	5	0
On entry of plaint under sections 11 and 12 of the County Courts Act, 1867		1	1	0
Where the plaint has not been entered under section 12, and the judge shall certify that the court has exercised jurisdiction under that section, the above fee of 1 <i>l.</i> 1 <i>s.</i> shall be paid.				
On every order for a new trial in actions commenced under sections 11 and 12 of County Courts Act, 1867		0	10	6
Taxing costs under either of the said sections 11 and 12, or under section 23 of the Agricultural Holdings (England) Act . .		0	10	6
For sealing every warrant, precept, or writ issued from a court other than a county court 6 <i>d.</i> in the pound on the amount for which it issues.				
For drawing up, sealing, and issuing every order under the following rules or any of them:—				
Order X., Rules 2—4		}	0	4
Order XI., Rules 4 and 8				
Order XXXIV., Rule 7				
Order XXXVII., Rules 15 and 16				
For drawing, sealing, and issuing every special judgment or order in the nature of a decree, where court exercises jurisdiction under the Supreme Court of Judicature Act, 1873, or under Order XXXIV.		0	15	0
For every sitting under—				
Order XI., Rule 7		}	0	10
Order XIV., Rules 7 and 8				
Order XVIII., Rule 17				
Where the sitting is longer than one hour, for every additional hour or part of an hour.		0	10	0
For every notice or summons under—				
Order XI., Rule 1		}	0	2
Order XIII., Rule 3				
Order XVI., Rule 12				
Order XIX., Rules 30, 31				
Orders XXXII. and XXXIV.				
For copies of every proceeding or document under Order XXXVII., Rule 3, at per folio		0	0	4
For making a return to a writ of certiorari for costs out of pocket		0	15	0
Filing affidavit on issue of duplicate plaint note		0	0	6
For every bond with sureties		0	5	0

COURT FEES.

SCHEDULE (B.)—*contd.*

Fees where the Court exercises Jurisdiction under the County Courts Act, 1867, the County Courts Act, 1875, the Supreme Court of Judicature Act, 1873, or the Agricultural Holdings (England) Act, 1875.		—		
<i>High Bailiff's Fees.</i>		£	s.	d.
For every default summons under section 1 of the County Courts Act, 1875, where not served by a solicitor		0	1	0
For executing every warrant, precept or writ issued by a court other than a county court, 1s. in the pound on the amount for which it issues; and for keeping possession, appraisement and sale, the same allowances as under a warrant of execution by a county court.				
For delivering the goods on completion of a replevin bond .. together with 6d. a mile from the court house to the place where the goods are.		1	1	0

PART II.

Fees where the Court exercises Jurisdiction under the County Courts Act, 1865, or sections 9, 24, 25, 26 and 27 of the County Courts Act, 1867, or section 12 of the Partition Act, 1868.	Where the Subject Matter of the Suit or Proceeding	
	Does not exceed 100l.	Where it exceeds 100l.
<i>Registrar's Fees.</i>	£ s. d.	£ s. d.
Filing affidavit and receipts, giving certificate and issuing notices in matters under Order XXXI., Rules 1 to 11 inclusive	0 10 0	0 15 0
Where the notices under Rules 11 exceed five, for every additional notice	0 0 6	0 1 0
On transfer of proceedings from Chancery Division of High Court of Justice; for perusing and filing papers, application to judge, drawing directions to proceed and notice to parties	1 1 0	1 1 0
For attesting admission of defendant and filing, Order XII., Rule 3	0 3 6	0 5 0
For filing statement of defendant or notice by plaintiff for dismissal of cause, Order XII., Rules 1 and 3	0 2 6	0 4 0
For settling draft order on an ex parte application, and the order as made, Order XI., Rule 4	0 10 0	0 15 0
Drawing and filing order of transfer, under Order XX., Rule 5, and transmitting order and papers	0 10 0	0 15 0
For drawing, filing and sealing every special order or judgment in any action or matter in the nature of a decree (other than orders obtained ex parte under Order XI., Rule 4), and every final order, including copy for service	0 15 0	1 5 0
For drawing every order for payment of money under Order XXVII., Rule 6, or any order under Order XXXVII., Rules 15 and 16	0 4 0	0 4 0
For every order for further directions under Order XVIII., Rule 34	0 7 0	0 12 0

SCHEDULE (B.)—contd.

Fees where the Court exercises Jurisdiction under the County Courts Act, 1865, or sections 9, 24, 25, 26 and 27 of the County Courts Act, 1867, or section 12 of the Partition Act, 1868.	Where the Subject Matter of the Suit or Proceeding	
	Does not exceed 100 <i>l.</i>	Where it exceeds 100 <i>l.</i>
	£ s. d.	£ s. d.
<i>Registrar's Fees—contd.</i>		
For filing or recording every order by judge for adjournment	0 2 6	0 4 0
For drawing advertisements and inserting	0 5 0	0 7 0
For every sitting on which the registrar is employed in taking accounts, making inquiries or acting as a special examiner under Order XVII., Rules 16 and 17, or Order XIV., Rules 7 and 8	0 10 0	0 10 0
Where the sitting is longer than one hour, then for every additional hour or part thereof	0 5 0	0 7 0
Where the registrar is required to attend elsewhere than at the court or office (in addition)	0 10 0	1 0 0
Mileage one way	0 0 6	0 0 6
For certificate under Order XVIII., Rule 30	0 15 0	1 10 0
For making and transmitting note of order under Order XXXVII., Rule 52	0 2 6	0 3 6
For every inspection of certificate, Order XVIII., Rule 31	0 1 0	0 2 0
For filing and sealing every affidavit or other document not being a document annexed to an affidavit	0 1 0	0 1 0
For every application for a search and searching	0 2 0	0 2 0
For issuing every warrant	0 2 0	0 3 0
For giving every notice required by any order, except as hereafter mentioned	0 2 0	0 2 6
Where the notices are given under Order XVIII., Rule 36	0 3 0	0 5 0
For every office copy, per folio	0 0 4	0 0 4
For every taxation of costs	0 7 0	0 10 0
For auditing receiver's accounts where sum in account does not exceed 100 <i>l.</i>	0 5 0	0 5 0
For every additional 50 <i>l.</i> or fraction thereof	0 2 6	0 2 6
For every bond with sureties	0 5 0	0 7 6
For every summons under Order XVIII., Rule 17	0 2 6	0 2 6
<i>High Bailiff's Fees.</i>		
For service, within home district, of every summons, petition, notice, or order—		
If within two miles of court house	0 4 6	0 6 6
If beyond one mile, then for every additional mile, or part of a mile	0 0 6	0 0 6
For service, of every summons, petition, notice, or order, in a foreign district, each defendant to be served	0 6 0	0 8 0
Where service is ordered to be personal, then an additional fee of	0 4 0	0 5 0
For the execution of each warrant within home district	0 7 6	0 10 0
With an allowance of mileage, double the amount of the allowance on summonses		

SCHEDULE (B.)—*contd.*

Fees where the Court exercises Jurisdiction under the County Courts Act, 1865, or sections 9, 24, 25, 26 and 27 of the County Courts Act, 1867, or of section 12 of the Partition Act, 1868.	Where the Subject-matter of the Suit or Proceeding.		
	Does not exceed 100 <i>l</i> .	Where it exceeds 100 <i>l</i> .	
	£ s. d.	£	s. d.
<i>High Bailiff's Fees.</i> —contd.			
For execution of each warrant in a foreign district..	0 10 0	0	15 0
Keeping possession, for each day the man is actually in possession	0 6 0	0	7 6
8 <i>s.</i> 6 <i>d.</i> of the above sum is to be paid to the man in possession, and his receipt produced to registrar.			
Superintending sale, whether by auction or private contract, making out account, and paying money into court, 2 <i>l.</i> per cent. on first 50 <i>l.</i> , so paid, and 1 <i>l.</i> per cent. on all afterwards.			

N.B.—Where the amount or value of the subject matter of the action or matter is not disclosed by the plaint or petition it shall be taken not to exceed 100%, and the fees charged accordingly. If, however, the judge shall subsequently certify that the amount or value of the subject matter does exceed 100%, the difference between the fees up to that time taken and those that would have been taken had it exceeded 100%, may then be taken.

PART III.

Winding up under "The Companies Act, 1867," and "The Industrial and Provident Societies Act, 1862," and "The Building Societies Act, 1874."

[illegible]

High Bailiff's Fees.

Same fees for service and execution as in Part II.

Protection of Property of Deserted Married Women.
20 & 21 Vict. c. 85, s. 21.

Registrar's Fee.

For sealing every order brought to a registrar, and entering name, and transmitting a sealed copy of the entry, to the registrar of county courts' judgments	0	5	0
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SCHEDULE (B).—*contd.*

PART IV.

Fees where the Court exercises Jurisdiction under the County Courts Admiralty Jurisdiction Acts, 1868 and 1869.	Where the amount claimed	
	Does not exceed 100l.	Exceeds 100l.
<i>Registrar's Fees.</i>	<i>s. d.</i>	<i>s. d.</i>
On every warrant of arrest of a vessel	5 0	7 6
„ release	5 0	7 6
„ bail bond	5 0	7 6
„ affidavit of justification	2 6	2 6
„ subpoena	2 0	3 0
„ notice of hearing each	1 6	2 6
Summons for the attendance of assessor at the hearing of any suit each	1 6	2 6
For every order of transfer	10 0	15 0
Where a special court is to be held for the hearing of the action	25 0	35 0
Where the court is to sit for the hearing or part hearing of an action beyond three miles from registrar's office, then in addition	15 0	15 0
Mileage one way from office to place of sitting, for each mile.. .. .	0 6	0 6
When the registrar cannot return the same night ..	21 0	21 0
For drawing final judgment	10 0	15 0
For filing an affidavit or other document, not being a document annexed to an affidavit	1 0	1 0
For every office copy of a document in the English language per folio	0 4	0 4
For office copies of papers in a foreign language, or of shorthand writers' or reporters' notes, or of abstracts or translations made in the office, in addition to the above fees, the charges of the copyist, shorthand writer, reporter, or translator	—	—
On a receipt for money or for papers (<i>only one fee to be taken, however many may be the papers delivered in at one time</i>)	1 0	1 0
Poundage on moneys paid out of the office in any suit for every 50l. or fraction thereof	5 0	5 0
From a person who is not a party in the suit, nor his solicitor, nor the clerk of the solicitor, on examining the court books in respect of any suit	1 0	1 0
For every summons of commitment	3 0	5 0
For every warrant against the body or goods or order of sale of vessel	5 0	7 6
On examining the documents in a suit in which no proceedings are pending, and which has been terminated within the last two years	2 6	2 6
Ditto ditto, if beyond that period	3 6	3 6
For every sitting in which the registrar is employed as an examiner where the amount claimed exceeds 20l. ..	7 0	10 0
When the sitting is longer than one hour, then for every additional hour or part of an hour	5 0	7 0

SCHEDULE B.—*contd.*

	Where the amount claimed	
	Does not exceed 100l.	Exceeds 100l.
<i>Registrar's Fees—cont.</i>		
Where the registrar shall be required to attend elsewhere than at the court or office, in addition to the above	<i>s. d.</i> 10 0	<i>s. d.</i> 20 0
Mileage one way from the office to the place of examination, for each mile	0 6	0 6
For taxation of costs	5 0	7 0
<i>High Bailiff's Fees.</i>		
For service of summons or subpoena, if served within three miles of registrar's office	5 0	5 0
If served beyond three miles of registrar's office, reasonable expenses for travelling and maintenance	—	—
Attendance at a special court if required by judge ..	7 6	15 0
In execution of a warrant of arrest of a vessel or property	15 0	20 0
In keeping possession of a vessel or property to include the cost of a vessel-keeper, if required .. per day	5 0	5 0
In execution had at a greater distance than three miles from registrar's office, reasonable expenses for travelling and maintenance	—	—
In sale of vessel or property, including inventory, for every 50l. or fraction thereof	10 0	10 0
For service of summons of commitment	4 0	8 0
Execution of warrant against body or goods	20 0	30 0
Conveyance to gaol per mile	1 0	1 0

N.B.—Where the amount or value of the subject matter of the action or matter is not disclosed by the plaint or petition it shall be taken not to exceed 100l., and the fees charged accordingly. If, however, the judge shall subsequently certify that the amount or value of the subject matter does exceed 100l., the difference between the fees up to that time taken and those that would have been taken had it exceeded 100l. may then be taken.

PART V.

Registrar's Fees.

Taxing every account under sect. 4 of "The Parliamentary Elections (Returning Officers) Act, 1875":—

	<i>s. d.</i>
Where the amount of the account to be taxed does not exceed 50l.	10 0
Where such amount exceeds 50l., for every 50l. or fractional part of 50l. an additional fee of	10 0

THE
COUNTY COURT RULES, 1876,
With Forms.

THE COUNTY COURT RULES, 1876.

1. These rules may be cited as "The County Court Rules, 1876," or each rule may be cited as if it had been one of "The County Court Rules, 1875," and had been numbered therein by the number of the order and rule placed in the margin opposite each of these rules.

2. An order and rule referred to by number in these rules shall mean the order and rule so numbered in "The County Court Rules, 1875."

3. There shall be added to the interpretation clause (a) to the County Court Rules, the words "'vessel' shall include every description of vessel used in navigation not propelled by oars only." Interpreta-
tion.

ORDER II.

OFFICERS.

4. The registrar shall keep the books (b) in the forms given in the schedule, except as follows:— Order II.
rule 2a.

Where book A is used, neither books B, C, D or E shall be used, but book F must be used.

Where books B and C are used, neither books A, D or E shall be used, but book F must be used.

Where books D and E are used, books A and B shall not be used, but book C may be used; and if book C be used, book F must be used.

Where the number of complaints entered in a court in 1875 exceeded 2,000, and book A is not used, books C and F must be used, and either book B or books D and E.

The books at present in use shall be continued until their pages are filled up.

Every registrar acting as high bailiff must keep book K instead of books L, N and T.

5. The bailiff making an indorsement on a summons served in a foreign district shall add after his name the word "bailiff," and the name of the court of which he is the bailiff (c). Order II.
rule 24a.

6. Where the plaintiff sues by a solicitor, the notices referred to in Order II. rules 5, 6, 22, 23 and 27 shall be sent to such solicitor (d). Order II.
rule 35.

ORDER IV.

COMMENCEMENT OF ACTION.

7. In Order IV. rule 5 (e), for the word "unless" the words "but no such leave is required where" are hereby substituted. Order IV.
rule 5a.

(a) See *ante*, p. 81.

(b) See *ante*, p. 83.

(c) See *ante*, p. 85.

(d) *Ante*, pp. 83—86.

(e) *Ante*, p. 88.

ORDER V.

PARTIES.

Order V.
rule 6a.

8. In Order V. rule 6 (*f*), for the words "the trial," the words "any stage of the proceedings" are hereby substituted.

ORDER VII.

PARTICULARS AND STATEMENT OF CLAIM.

Order VII.
rule 6a.

9. In Order VII. rule 6 (*g*), for the figures "1875" the figures "1867" are hereby substituted.

Order VII.
rule 8a.

10. In Order VII. rule 8 (*h*), for the words "such service" the words "service of such notice" shall be substituted.

ORDER VIII.

PLAINT NOTE AND SUMMONS.

Order VIII.
rule 6a.

11. Order VIII. rule 6 (*i*), shall be read as if the last nine words of the rule were not therein.

ORDER IX.

SPECIAL DEFENCES (*k*).

Order IX.
rule 1a.

12. A defendant in an action may set off, or set up, by way of counter-claim against the claims of the plaintiff, any right or claim, whether such set-off or counter-claim sound in damages or not.

13. Order IX., rule 8 (*l*), is hereby annulled, and the following shall stand in lieu thereof:—

Order IX.
rule 8a.

Where the defendant intends to rely upon a set-off or counter-claim against the claims of the plaintiff, his statement shall contain particulars of such set-off or counter-claim.

Order IX.
rule 17.

14. Where a defendant by his defence sets up any counter-claim which raises questions between himself and the plaintiff along with any other person, he may apply to the court, under Order XVII., rule 12 (*m*), to add the name of such person as a party to the counter-claim.

ORDER X. (*n*).

COUNTER-CLAIM.

Order X. is hereby annulled, and the following order shall stand in lieu thereof:—

ORDER Xa.

CLAIM FOR CONTRIBUTION, INDEMNITY, &c.

Notice of
claim to
contribution,
indemnity,
&c. to be
given.

15. (1.) Where a defendant is or claims to be entitled to contribution, indemnity, or other remedy or relief over against any person not a party to the action, he shall, five clear days before the return-day, file a notice, which notice may be in the form or to the effect of the form in the schedule, with such variations as circumstances may require, and

(*f*) *Ante*, p. 90.
(*g*) *Ante*, p. 93.
(*h*) *Ante*, pp. 93, 94.
(*i*) *Ante*, pp. 94, 95.

(*k*) See *ante*, p. 98.
(*l*) *Ante*, p. 99.
(*m*) *Ante*, p. 111.
(*n*) See *ante*, p. 100.

the registrar shall seal such notice and deliver it to the defendant, who shall serve the same, together with a copy of the summons on the plaintiff and of the particulars annexed thereto, upon the person against whom such claim is made; and such service shall be regulated by the rules as to service of default summonses.

Form 312.

16. (2.) If any person served with a notice under the last preceding rule desires to dispute the plaintiff's claim in the action as against the defendant on whose behalf the notice has been given, he must appear at the court on the return-day mentioned in the summons, or on any day to which he may have received notice from the registrar that the trial has, under Order XXXVII., rule 30 (o), been postponed; and in default of his so doing he shall be deemed to admit the validity of the judgment obtained against such defendant, whether obtained by consent or otherwise.

If person served makes default in appearing, he is to be deemed to admit validity of judgment against defendant.

17. (3.) Any person served with a notice under the last preceding rule but one, or the defendant in the action, may apply at or before the trial to the judge for directions as to the conduct of the action, and as to any proceedings or notices therein, and upon such application the judge may order such person to be substituted for, or to be joined with, the defendant in the action, upon such terms as to security or otherwise as may seem just, and generally may direct such proceedings to be taken and give such directions as he shall think proper.

Application to judge for directions as to conduct of action.

(See Order XXXVII. rule 30.)

ORDER XII.

DISCONTINUANCE, &C.

18. Order XII., rule 1 (p), is hereby annulled, and the following shall stand in lieu thereof:—

Order XII. rule 1a.

If the plaintiff desires to discontinue the action or matter against all or any of the parties thereto, he shall give notice (which shall, if required, be in writing) thereof to the registrar, and, by post or otherwise, to the party or parties as to whom he so desires to discontinue the action or matter, and after the receipt of such notice the party may apply *ex parte* for an order against the plaintiff for the costs incurred before the receipt of such notice, and of attending the court to obtain the order.

Discontinuance of action.

Form 224.

19. Where a notice of defence under section one of "The County Courts Act, 1875" (q), has been given, and the defendant, before notice of the day fixed for the trial by the registrar has been sent to the plaintiff, pays into court the amount claimed, together with the fees and costs charged on the summons, he shall not be liable for any further costs. Where notice of trial has been so sent, it shall be lawful for the court to order the defendant to pay such further fees and costs as the plaintiff may have, prior to receiving notice from the registrar of the payment into court, incurred in preparing for trial, and may incur in attending court on the day fixed for the trial to obtain this order, and such order shall be for payment forthwith; and the costs of any proceeding special to admiralty actions *in rem*, may be allowed on the principle of the scale of costs applicable to actions in general.

Order XII. rule 5a.
Where payment made after notice of defence given.

Order XII., rule 6 (r), is hereby annulled, and the following shall stand in lieu thereof:—

Order XII. rule 6a.

20. Where a defendant pays into court any sum admitted by him to

Where amount

(o) *Ante*, p. 146.
(p) *Ante*, p. 102.

(q) *Ante*, p. 3.
(r) *Ante*, p. 105.

admitted includes amount of a set-off or counter-claim.

be due after deducting any amount he may claim as a set-off or counter-claim, he shall pay therewith court fees proportionate to the total amount of the sum paid in, and of the sum he claims by way of set-off or counter-claim.

ORDER XVII.
AMENDMENT (s).

Order XVII. rule 12a.
Notice to an added defendant.

21. Where a defendant is added a copy of the order of the court adding him as a defendant in the action, together with a copy of the summons on the plaint, and a notice as to the day upon which he is to attend at the court, shall be served according to the rules as to service of ordinary summonses.

ORDER XVIII.
JUDGMENTS AND ORDERS.

Order XVIII. rule 38a.

22. Order XVIII., rule 38 (t), is hereby annulled.

ORDER XIX.

ENFORCEMENT OF JUDGMENTS AND ORDERS.

Order XIX. rule 9a.
Order XIX. rule 20a.

23. Order XIX., rule 9 (u), shall be read as if the words "or is employed" had been inserted after the word "business" in such rule.
24. In Order XIX., rule 20 (x), for the words "no such order shall issue, or if issued but not executed, shall be recalled," the words "such order shall not issue: but, if issued and not executed, it shall be recalled," are hereby substituted.

ORDER XXIV.
ATTACHMENT OF DEBTS (y).

Order XXIV. rule 4a.
Service on a firm or company.

25. Where the garnishee is a firm or is a company or other corporation the summons need not be served personally, but it may be served as provided by Order VIII. (z), with respect to the service of an ordinary summons.

ORDER XXXI.
PROCEEDINGS UNDER TRUSTEE RELIEF ACT, &C.

Order XXXI. rule 21a.

26. In Order XXXI., rule 21 (a), for the words "the preceding rules relating" the words "such of these rules as relate" are hereby substituted.

ORDER XXXIII.
ADMIRALTY ACTIONS.

Order XXXIII. rule 6a.
Order XXXIII. rule 10a.

27. Order XXXIII., rule 6 (b), shall be read as if the words "enter a plaint, and" had been inserted after the word "shall" in such rule.
28. In Order XXXIII., rule 10 (c), for the word "admiralty" the word "justice" is hereby substituted.

(s) See ante, pp. 109—111. (z) See ante, pp. 94—98.
(t) Ante, p. 116. (a) Ante, p. 134.
(u) Ante, p. 117. (b) Ante, p. 136.
(w) Ante, p. 118. (c) Ante, p. 136.
(y) See ante, p. 124.

ORDER XXXVI.

COSTS.

29. Order XXXVI., rule 13 (*d*), shall be read as if the words "and costs" were not therein.

Order
XXXVI.
rule 13a.

30. Item 2 in Part I. and item 3 in Part II., and 3 and 4 in Part III., and a moiety of any item for "affidavit of service with copy of summons annexed, attending to file, and entering up judgment by default," in the scale of costs for actions not exceeding 20*l.* (*e*), shall not be entered on the summons; and where counsel is employed, and an amount of not less than five pounds is claimed, one pound three shillings and sixpence may be allowed by the court in addition to the item for the attendance in court of a solicitor.

Order
XXXVI.
rule 14.

31. Where a counter-claimant fails to establish his counter-claim, he may be ordered to pay to the plaintiff costs on such scale as the court may think just, and where he succeeds in establishing his counter-claim, the plaintiff may be ordered to pay to him costs on such scale as the court may think just.

Order
XXXVI.
rule 15.

32. In admiralty actions *in rem* where the amount claimed does not exceed twenty pounds, the costs shall be allowed on the scale in actions above twenty pounds, unless the judge shall be of opinion that proceedings *in rem* ought not to have been taken, and shall otherwise order; and the costs of any proceeding special to admiralty actions *in rem* may be allowed on the principle of the scale applicable to actions in general.

Order
XXXVI.
rule 16.

ORDER XXXVII.

PRACTICE.

33. In Order XXXVII. rule 1 (*f*), for the words "one month" the words "two months" shall be substituted.

Order
XXXVII.
rule 1a.

34. Order XXXVII. rule 23 (*g*), is hereby annulled.

Order
XXXVII.
rule 23a.

35. Where the time for doing any act or taking any proceeding expires on a Sunday, or other day on which the offices are closed, and by reason thereof such act or proceeding cannot be done or taken on that day, such act or proceeding shall, so far as regards the time of doing or taking the same, be held to be duly done or taken if done or taken on the day on which the offices shall next be open.

Order
XXXVII.
rule 34a.

ORDER XXXIXA.

THE LOCAL LOANS ACT, 1875.

36. An application to a county court for the appointment of a receiver under the provisions of section twelve of "The Local Loans Act, 1875" (*h*), shall be made by petition, and the same procedure shall

Order
XXXIXa.
Application
for appoint-

(*d*) *Ante*, p. 143.

(*e*) See *ante*, p. 269.

(*f*) *Ante*, p. 143.

(*g*) *Ante*, p. 145.

(*h*) This act (38 & 39 Vict. c. 83), amending the law relating to securities for loans contracted by local authorities, gives a remedy by action (in which a mandamus may be claimed) in default of payment of

any sum due. Sect. 12 provides that if a local authority makes default for twenty-one days in paying an amount of not less than 500*l.*, the person entitled may, instead of or in addition to bringing an action, "apply to the county court for the appointment of a receiver, and any receiver so appointed (subject to any direction which may be given by the court)

ment of a receiver to be by petition.

Application for rectification of register of nominal securities to be by petition.

To what court petition to be presented.

be followed and the same fees be paid and costs allowed as on any other petition to the court in which the subject-matter of the petition exceeds 100%.

37. An application to the judge of a county court for the rectification of a register of nominal securities under the provisions of section twenty-five of "The Local Loans Act, 1875" (i), shall be made by petition, and the same procedure shall be followed, and the same fees be paid, and costs allowed, as on any other petition to the court in which the subject-matter of the petition exceeds 20% and does not exceed 100%.

38. The court to which petitions shall be presented under the two last preceding rules shall be the court of the district in which the local authority exercises its authority.

shall from time to time raise, as hereinafter mentioned, by or out of the local rate or property charged, sufficient money to pay the amount the payment of which is so in default, and all sums due while he is receiver on or in respect of any such security, together with all costs, charges and expenses incurred in or about the appointment of such receiver, and the execution of his duties under this section, including a proper remuneration for his trouble, and shall render to the defaulting authority the balance, if any, remaining in his hands after making the said payments." The same section, after giving power to the receiver to raise the amount by means of the local rate, and by receipt of rents and profits when the amount due is charged on other property, enacts that, "a county court may appoint a receiver under this section with respect to any local rate levied, or any property situate wholly or partly within the jurisdiction of such court, and may remove such receiver and appoint another in his stead, and so from time to time; and may make such orders and give such directions as to the powers and duties of the receiver, and otherwise as to the disposal of the moneys received by him, as may be thought fit for carrying this section into effect."

(i) By the act cited a register of securities is required to be kept, including the names and addresses of owners, and by s. 25, "if the name of any person is without sufficient cause entered in or omitted from the register, or if default is made or unnecessary delay takes place in making any entry in such register, the person aggrieved or the local authority may apply to the court for an order that the register may be rectified." The court may either refuse the application with or without costs, or make an order for the rectification of the register, and make an order as to costs or damages, and decide any question relating to the title to have a name entered or omitted from the register, and generally any question necessary or expedient to decide for the rectification of the register. The court means "any of her Majesty's superior courts of law or equity, or any court to which the jurisdiction of such courts may be transferred, and, where the value of any security or securities to which the application relates does not exceed 50%, shall include a county court, and the jurisdiction by this act given to a superior court may be exercised in a summary manner by any judge or judges of such court sitting in chambers or otherwise."

SCHEDULE.

262 (in lieu of No. 19) (a).

Notice of Day of Trial where Notice of Defence given.

In the county court of, &c.

Between A. B., plaintiff,
and
C. D., defendant.

38 & 39 Vict.
c. 50.

Take notice, that the defendant has given notice of his intention to defend this action, and that the same will be tried at a court to be holden at [*insert court-house*] on the day of 187 , at o'clock in the noon.

To the plaintiff.

263.

Notice to Defendant of Day of Trial.

In the county court of, &c.

Between A. B., plaintiff,
and
C. D., defendant.

38 & 39 Vict.
c. 50.

You having given notice of your intention to defend this action, take notice that the same will be tried at a court to be holden, &c. on day of 187 , at o'clock in the noon.

To the defendant.

264.

Letter to be sent with Default-Summons out of the District under Sect. 1 of "The County Courts Act, 1875," or "Bills of Exchange Act, 1855."

In the county court of holden at .
Sir,

Order II.
rule 5.

I hereby request that you will have the accompanying summons personally served, and return the enclosed copy of the same to me, properly endorsed, showing the fact and mode of the service. The defendant is stated to reside at .

On presentation of this letter to the treasurer of your court, he is to pay you the fee of shilling .

Your obedient servant,
Registrar.

To high bailiff
of the county court of
holden at .

(a) *Ante*, p. 159.

265.

Notice by Registrar rejecting Affidavit.

Order II.
rule 18.

I hereby give you notice that I reject the affidavit of of sworn
the day of and refuse to file the same, and my reasons for rejecting
such affidavit and refusing to file same are as follows:—
Dated this day of .

To the above-named plaintiff or defendant.

Registrar.

266.

Notice to High Bailiff of Foreign Court of Complaint against him.

Order II.
rule 25.

Take notice that an application will be made to the judge of this court on the
 day of 18 , for an order directing you to compensate the plaintiff
for loss of time and expense incurred by him owing to your neglect to return
the copy of the summons in this action within due time.

267 (in lieu of No. 18). (b)

Notice of Service of Default Summons.

Order II.
rule 27.

You are hereby informed that the defendant was on the day of
187 , served with the summons issued in this action.

To the plaintiff.

High bailiff.

268 (in lieu of No. 18). (b)

Notice of Non-Service of a Default Summons.

Order II.
rule 27.

Take notice, that the summons in this action has not been served, for the
following reason:—

To the plaintiff.

High bailiff.

269.

High Bailiff's Warrant to Registrar of Foreign Court.

9 & 10 Vict.
c. 95, s. 104.
Order II.
rule 31.

Whereas the warrant of execution hereto annexed has been issued out of
this court against the goods and chattels of :
And whereas the goods and chattels of are out of the ordinary jurisdic-
tion of this court, and are [or is] believed to be within the jurisdiction of the
county court of holden at of which you are the registrar:
[Or, Whereas the order of commitment hereto annexed has been made
against :
And whereas he is out of the ordinary jurisdiction of this court, and is be-
lieved to be within the jurisdiction of the county court of holden at]:
These are therefore to require you to cause the said warrant [or order] to be
executed within the ordinary jurisdiction of the said last-mentioned county court.
Dated this day of 18 .

To the registrar of the county court High bailiff of the county court
of holden at of holden at .

(b) Ante, p. 158.

270.

Notice to Receiver to produce his Accounts for Audit.

You are hereby required, on or before the day of 187 , to leave Order III.
 at my office your accounts as receiver in this action [*or* petition *or* matter], duly rule 4.
 verified by affidavit, and to attend at my office aforesaid at o'clock in the
 noon for the purpose of having such accounts audited, and you are
 required to bring with you all receipts, papers, and vouchers necessary for
 verifying such accounts.

To E. F.,
 receiver in this action [*or*
 petition *or* matter].

271.

Order on Receiver to pay to Beneficiaire.

Upon the application of it is ordered that X. Y., of appointed by Order III.
 an order of this court, dated the day of , the receiver in this action rule 7.
 [*or* matter], do pay at the end of each quarter to the moneys received by
 him during the quarter as such receiver, after deducting his own remuneration
 and all other proper disbursements; and that he be allowed such payments in
 passing his accounts.

(Note.—Where the court at the time of appointing the receiver adds a
 similar direction, it can be prepared from this form.)

272.

Bond for Costs where Plaintiff out of England.

Know all men by these presents that we A. B. of C. D. of and Order IV.
 E. F. of are held and firmly bound to G. H. of in the sum of rule 2.
 £ to be paid to the said G. H. or his certain attorney, executors, admi-
 nistrators or assigns, which payment to be well and truly made we bind our-
 selves jointly and severally, and our and each of our heirs, executors, and
 administrators, firmly, by these presents.

Sealed with our seals and dated this day of 18 .

Whereas a plaint was upon the day of entered by the above-
 named A. B. against the above-named G. H. in the county court of holden
 at .

And whereas it appeared upon the entry of such plaint that the said A. B.
 did not reside in England or Wales: And whereas it is directed by rule 2 of
 order 4 of "The County Court Rules, 1875," that the summons shall not be
 issued until security for costs, by deposit or otherwise, shall have been given
 to the satisfaction of the registrar of the court:

And whereas the said A. B. and the above bounden C. D. and E. F. as
 sureties for the said A. B. have agreed to give such security by entering into
 the above written bond or obligation with the condition hereunder written, and
 the security has been approved of by the registrar of the said county court:

Now the condition of the above written bond is such, that if the said A. B.,
 the plaintiff, or any plaintiff substituted in his stead, discontinue, or become
 nonsuit in the said action, or in case the said action is referred to arbitration,
 and an award is made against the said A. B. or any substituted plaintiff
 therein, showing that he is not entitled to recover therein, or if the said G. H.
 the defendant, or any substituted defendant, obtain a judgment or verdict or
 any other judgment therein, then or in either of the said cases if the above
 bounden A. B., C. D. and E. F., or either of them, their or either of their
 heirs, executors or administrators, do pay or cause to be paid to the said G. H.,

his executors, administrators or assigns, his or their costs to be taxed in the said action, then this obligation to be void and of no effect, or otherwise to be and remain in full force and virtue.

273.

Notice by Solicitor of Intention to serve Summons.

Order IV.
rule 6.

I hereby give you notice that I the solicitor acting for the plaintiff herein, or some clerk or servant in my permanent and exclusive employ, will serve the summons in this action pursuant to order 4, rule 6, of the County Court Rules, 1875.

Dated this day of .

L. M. of

To the registrar and
to the defendant.

Plaintiff's solicitor.

274.

Affidavit of Service of Summons by Solicitor.

Order IV.
rule 7.

I, L. M. of the solicitor for the above-named plaintiff (or X. Y., a clerk [or servant] in the permanent and exclusive employ of L. M., solicitor for the above-named plaintiff), make oath and say:

1. That I [*where service made by a clerk or servant*, am a clerk [or servant] in the permanent and exclusive employ of L. M. of above-named solicitor, and that I am over years of age.

2. That I] did on the day of 18 , duly serve E. F. the above-named defendant [or one of the above-named defendants] with a summons, a true copy whereof is hereunto annexed marked "A." by delivering the same personally to the said defendant [*here insert place where service was made*].

Sworn at in the county of

this day of 187 .

(*Indorse the copy-summons or other process thus:—*This paper marked "A." is the paper referred to in the annexed affidavit.)

275.

Order for substituted Service.

38 & 39 Vict.
c. 50, s. 1.

Order VIII.
rule 33.

Order
XXXIII.
rule 25.

Upon reading an affidavit of of in the county of sworn the day of 187 :

It is ordered that the delivery of a sealed copy of the summons issued in this action, together with a sealed copy of this order, to some adult inmate at the usual or last known place of residence or business of the above-named defendant C. D., situate and being at in the county of shall be deemed to be good and sufficient service of the said summons on the said C. D. on the day of such delivery.

[*Or*, that notice of the entry of the above-named plaint be published in the and that the publication of such notice shall be deemed to be service of the summons upon the said C. D., or that the plaintiff be at liberty to proceed in this action the same as if personal service had been effected.]

Dated this day of 18 .

Registrar.

276.

Substituted Service—Notice in Papers.

In the county court of holden at .
To C. D. of .

Take notice that a plaint has been entered and a summons issued against you in the above county court by A. B. of for the sum of £ for goods sold and delivered [*or as the case may be*], and an order has been made that the publication of a notice of the entry of such plaint in the shall be deemed to be service of the summons upon you. 38 & 39 Vict.
c. 50, s. 1.
Order VIII.
rule 33.
Order
XXXIII.
rule 25.

The summons will be heard at on the day of at o'clock in the forenoon, on which day you are required to appear, and if you do not appear either in person or by your solicitor at the time and place above mentioned, such order will be made and proceedings taken as the judge may think just and expedient.

Dated this day of 18 .

Registrar.

277.

Notice of Postponement of Trial.

I hereby give you notice that the trial of the above action is postponed until the day of 18 , at o'clock in the forenoon, and if you do not attend at the court-house at upon the day and at the hour above mentioned, either in person or by your solicitor, such order will be made and proceedings taken as the judge may deem fit. Order X. and
Order
XXXVII.
rule 30.

Dated this day of 18 .

Registrar.

To the plaintiff and defendant.

278.

Order appointing a Receiver of Real and Personal Estate.

Upon the application of and upon reading an affidavit of and upon hearing Order XI.
rule 8.

It is ordered that of be appointed to receive the rents and profits of the real and leasehold estates of and to get in the outstanding personal estate of the testator [*or intestate*] in the plaint named; and the tenants of the real and leasehold estates are to attorn and pay their rents in arrear and growing rents to such receiver.

And it is ordered that the defendants, the executors of the testator [*or administrators of the intestate*], deliver over to such receiver all securities in their hands for such outstanding personal estate, together with all books and papers relating thereto.

279.

Order appointing a Receiver of a Partnership.

Upon the application of and upon reading an affidavit of and upon hearing Order XI.
rule 8.

It is ordered that of be appointed to collect, get in and receive the debts now due and outstanding, and other assets and property belonging to the partnership business of at and out of the first moneys received to pay the debts due from the said business.

And it is further ordered that the plaintiff and defendant respectively do

deliver over to the said all the stock in trade and effects of the said partnership, and also all securities in their or either of their hands for such outstanding partnership estate, together with all books and papers relating thereto.

280.

Notice of Application for Order in the nature of Injunction.

Order XI.
rules 1 and 3.

Take notice that I, A. B., intend to apply at the sitting of the court to be held at [or to Mr. Judge at] on the day of 18 , at o'clock in the noon, for an order in the nature of an injunction to restrain C. D. of [or to restrain him from receiving and giving discharges for any of the debts due to the partnership in the matter of the partnership between us for the winding-up of which the action was commenced, or from digging the turf from the land which was agreed to be sold by him to me by the agreement, the specific performance of which this action is commenced to enforce, or as the case may be].

Dated this day of 18 .

A. B.

To C. D., of .

281.

Notice of Payment into Court of whole Claim.

Order XII.
rule 4.

Take notice, that the defendant has paid into court the full amount of your demand in this action, together with your costs therein.

[N.B.—Upon your applying for the above amount it will be necessary that you should produce the plaint note given to you on the entry of the plaint.]

282.

Notice of Payment of Part of Claim into Court.

Order XII.
rule 4.

Take notice that the defendant has this day paid into court the sum of £ : If you elect to accept the same in full satisfaction of the sum claimed, and the costs you have incurred, and send to the registrar of this court, and to the defendant, a written notice forthwith, by post, or by leaving the same at the registrar's office and at the defendant's place of abode or business, the action will be discontinued, and you will be liable to no further costs. In default of such notice the action may proceed, and if you do not appear at the hearing you will be liable to pay to the defendant such costs as he may incur for appearing at the hearing, or such other sum of money as the judge may order, for expenses subsequent to the payment into court.

Dated this day of 18 .

Registrar of the court.

To the plaintiff.

[N. B.—Upon your applying for the above amount it will be necessary that you should produce the plaint-note given to you on the entry of the plaint.]

283.

Judgment against Defendant for Payment of Costs.

Order XVI.
rule 11.

Upon hearing the plaintiff's application at a court holden this day, it is adjudged that the plaintiff do recover against the defendant the sum of

£ for costs incurred by the plaintiff in preparing for trial [*or* in attending court] before the notice of payment of money into court was received by him, such money having been so paid in less than five clear days before the return day of the summons.

And it is ordered, that the defendant do pay the same to the registrar of this court on the day of 18 .

284.

Notice of Discontinuance of Action.

Take notice, that I shall not proceed further in this action, and that I hereby withdraw from the same. Order XII.
rule 1.

Dated this day of .

Plaintiff.

To the registrar.

285.

Order for Interrogatories.

Upon reading the affidavit of I do order that the be at liberty to deliver to the or his solicitor, on or before the day of 18 , interrogatories in writing upon the matters as to which discovery is sought in this action, and that the do, on or before the day of 18 , answer the questions in writing by affidavit, and return such answers to me for filing. Order XIII.
rule 6.

Dated this day of .

Registrar or judge.

286.

Order for production of Documents.

Whereas of was duly summoned under a summons of this court dated the day of to produce at the trial of this action upon this day of the following papers and documents: Order XIII.
rule 4.

(*Here set out documents contained in summons.*)

And whereas the said summons was duly served upon the said upon the day of :

And whereas the said has failed to produce the said documents above set out, or any or either of them [*or* has failed to produce the following document being of the documents above set out]:

And whereas it has been proved to the satisfaction of this court that the documents above set out [*or* the following documents being of the documents above set out] are in the possession, power, or control of the said , and that they relate to the matters in dispute in this action :

It is ordered that the said do on or before the day of produce and leave with the registrar of this court, at his office situate at the said following documents; namely, .

287.

Notice of Application for further Order for production.

Let all parties concerned attend at on the day of at o'clock in the forenoon, on the hearing of an application on the part Order XIII.
rule 3.

D.C.C.

X

of _____, to consider the objection made by the affidavit of the _____, filed the _____ day of _____, pursuant to the order dated the _____ day of _____, to produce the documents set forth in the second part of the first schedule thereto [*or as may be*].

Dated this _____ day of _____.

Registrar.

To the plaintiff and defendant.

288.

Notice to Admit and Inspect.

Order XIII.
rule 9.

Take notice, that the plaintiff [*or defendant*] in this cause proposes to adduce in evidence the several documents hereunder specified, and that the same may be inspected by the defendant [*or plaintiff*], his solicitor or agent, at _____ on the _____ day of _____ 187____, between the hours of _____ and _____, and the defendant or plaintiff is hereby required within 48 hours from the last-mentioned hour to admit, saving all just exceptions to the admissibility of all such documents as evidence in this cause, that such of the said documents as are specified to be originals were respectively written, signed, or executed as they purport respectively to have been, that such as are specified as copies are true copies, and that such documents as are stated to have been served, sent, or delivered, were so served, sent, or delivered respectively.

Dated this _____ day of _____
To E. F., solicitor for defendant
[*or plaintiff*].

G. H., of _____ solicitor for plaintiff
[*or defendant*].

ORIGINALS.

Description of Document.	Dates.
Deed of covenant between A. B. of the first part, and C. D. of the second part.	January 1, 1848.
Letter—defendant to plaintiff - - - -	March 1, 1848.

COPIES.

Description of Document.	Dates.	Original or Duplicate served, sent, or delivered, when, how, and by whom.
Register of baptism of A. B., in the parish of X.	January 1, 1848 -	_____
Letter—plaintiff to defendant -	February 1, 1848 -	Sent by General Post, February 2nd, 1848.

289.

Affidavit of Service of Summons on a Witness.

Order XIV.
rule 1.

I _____ of _____ the above-named plaintiff [*or defendant*, or I, L. M., of _____ the solicitor for the above-named plaintiff *or defendant*, or X. Y., a clerk or

servant in the permanent and exclusive employ of L. M., the solicitor for the above-named plaintiff or defendant] make oath and say as follows:—

1. That I [~~where service made by a clerk or serrant~~, am a clerk [~~or serrant~~] in the permanent and exclusive employ of L. M., of the solicitor for the above-named plaintiff or defendant.

2. That I] did on the day of 18 , duly serve the witness E. F., of with a summons, a true copy of which is hereunto annexed marked "A," by delivering the same personally to the said witness E. F., at in the county of .

3. That I paid the said witness E. F., at the same time and place, the sum of conduct money in accordance with the authorized scale of allowances to witnesses in this honourable court.

Sworn at

(*Indorse the copy summons thus:—*This paper marked A. is the paper referred to in the annexed affidavit.)

290.

Notice to Registrar of Change in Plaintiff's Title before Judgment.

I hereby give you notice that , the plaintiff in the above action, died upon the day of , and that his last will and testament were duly proved by me in the principal [~~or district~~] registry of the Probate Division of her Majesty's High Court of Justice [~~or that letters of administration to his personal estate and effects were duly granted to me~~] upon the day of 18 , and that I am the executor of his said will [~~or that I am the administrator of the personal estate and effects of the said deceased~~].

Order XV.
rule 1.

By executor
or adminis-
trator.

[*Or*, the above-named by an assignment dated the day of , duly assigned all his interest in the subject matter of the above action to me, the undersigned.]

By assignee.

And further take notice that I am desirous of being substituted as plaintiff in the above action against the above-named defendant in the place of the said [~~or in addition to the said plaintiff~~].

Dated this day of .

(*Signature.*)

To the registrar of the court,
and to the above-named
defendant.

291.

Notice to Defendant of Change in Plaintiff's Title.

I hereby give you notice, that of as executor of the last will and testament of deceased [~~or as administrator of the personal estate and effects of deceased~~] [~~or as assignee under an assignment dated the day of]~~ has this day filed an affidavit, together with a notice, a copy of which notice is hereunto annexed, stating that he is desirous of being substituted as a plaintiff in the above action against you in the place of [~~or added as a plaintiff with~~] the above-named plaintiff in the above action against you.

Order XV.
rule 1.

And further take notice that unless you appear at the hearing of this action upon the day of 18 , at o'clock in the forenoon, to show cause against the same, the said will be substituted for [~~or made a joint plaintiff with~~] the above-named plaintiff.

N.B.—*Similar notices upon change in defendant's title before judgment may be prepared from this and the last form,*

Order XV.
rule 2.

292.

Order for Costs to Defendant where Plaintiff does not appear.

**Order XVI.
rule 5.**

Whereas the plaintiff has not appeared, either by himself, his solicitor, or agent, at the court holden this day, being the day appointed for the trial of this cause, and the defendant has appeared in person [or by his solicitor or agent], and has not admitted the demand: It is awarded that the plaintiff do pay the sum of £ for the defendant's costs, and it is ordered that the plaintiff do pay the same to the registrar of this court on the day of ,
18 .

293.

Judgment where Counter-claim is successful.

**Order XVI.
rule 16.**

In the county court of _____ holden at _____
Between A. B., plaintiff,
and
C. D., defendant,
(by original action).
And between C. D., plaintiff,
and
A. B., defendant,
(by counter-claim).

**Order XVI.
rule 16.**

It is this day adjudged that the plaintiff in the original action do recover against the defendant in the original action the sum of £ for debt [or damages] and £ for costs, amounting together to the sum of £ [or that judgment be entered for the defendant [or that judgment of nonsuit be entered] in the original action, and that the plaintiff in the said action do pay the sum of £ for the said defendant's costs].

And it is further adjudged that the plaintiff by counter-claim do recover against the defendant by counter-claim the sum of £ for debt [*or damages, or as the case may be*] and £ for costs, amounting together to the sum of £ [*or that judgment be entered for the defendant by counter-claim [or that judgment of nonsuit be entered], and that the plaintiff by counter-claim do pay the sum of £ for the said defendant's costs*].

And it is ordered that the defendant [or plaintiff] by counter-claim do pay to the registrar of the court the sum of £ [add where necessary, being the balance in favour of the plaintiff by counter-claim after deducting the amount adjudged to be due to the plaintiff in the original action]; and that the said sum be so paid on the day of [or by instalments of for every days, the first instalment to be paid on the day of 18].

294.

Notice to Parties whose Names are added as Defendants.

**Order XVII.
rule 12 (a).**

I hereby give you notice that by an order of this court dated the day of , a copy of which order is hereunto annexed, together with a copy of the summons in the action, you were ordered to be added as one of the defendants in the above action.

And further take notice that the hearing of the above action has been adjourned to the day of at o'clock in the forenoon, and that if you do not attend at the court house at upon the day and at the hour above mentioned, either in person or by your solicitor, such order will be made and proceedings taken as the judge may think fit.

Dated this
To S. F. of

Registrar.

295.

Summons to Parties to attend upon taking Accounts.

Let all parties concerned attend me at my chambers on the day of 18 , at o'clock in the forenoon, to proceed with the accounts and inquiries directed by the decretal order herein dated the day of 187 . Order XVIII
rule 17.

Dated this day of .

Registrar.

296.

Certificate of Payment by a Prisoner.

The Debtors Act, 1869.

I hereby certify that the defendant, who was committed to my [*or your*] custody by virtue of an order of commitment under the seal of this court [*or of* the county court of holden at], bearing date the day of 187 , has paid and satisfied the sum of money for the non-payment whereof he was so committed, together with all costs due and payable by him in respect thereof; [*and where the certificate is sent by the registrar:* and that the defendant may, in respect of such order, be forthwith discharged out of your custody]. Order XIX.
rule 25.

Dated [*or given under the seal of the court*] this day of 18 .
Governor or keeper of [*or registrar of the*
county court of holden at].

To the governor or keeper of [*or*
the registrar of the county court
of holden at].

297.

Notice to be Endorsed on Order under Order 19, Rule 28.

To A. B. of

Take notice that unless you obey the directions contained in this order, obedience thereto will be enforced in such manner as the law directs. Order XIX.
rule 28.

Dated this day of .

Registrar.

298.

*Affidavit for leave to summon Garnishee.*Order XXIV.
rule 3.

I, A. B. of in the county of the above-named plaintiff, make oath and say :

1. That I, on the day of last, recovered a judgment in the county court of , holden at , in this action against the above-named defendant, for the sum of £ debt and costs.

2. That the said judgment is still wholly unsatisfied, *or* is still unsatisfied to the sum of £ part of the said judgment so recovered as aforesaid.

3. That M. N. of in the county of is indebted to the said defendant in the sum of £ for .

4. That the said M. N. resides or carries on business within the district of this honourable court [*or* that the cause of action between the said defendant and the said M. N. arose wholly or in part within the district of this honourable court, *or* that the said M. N. dwelt or carried on business within the district of this honourable court within six calendar months of this, the day of 18].

Sworn, &c.

299.

Summons upon a Garnishee (in lieu of No. 100). (c)

Between A. B., plaintiff,
(address and description)

and

C. D., defendant,
(address and description)

and

E. F., garnishee,
(address and description).

Order XXIV.
rule 3.

Whereas the plaintiff at a court holden at on the day of 18 , obtained a judgment against C. D. of [*name, address, and description*] for the sum of for and costs, which judgment remains unsatisfied. And whereas the plaintiff having filed an affidavit stating that you are indebted to the said C. D. you are hereby summoned to appear at a court holden at on the day of 18 , at the hour of in the noon, to show cause why an order should not be made upon you for the payment of the amount of the said judgment, or so much thereof as shall equal the amount of the debts due and owing and accruing from you to the said C. D.

And take notice, that from and after the service of the summons upon you all such debts are attached to answer the said judgment, and that if you shall pay the said debts to the said C. D., or otherwise dispose of them, you will be liable to be committed for contempt.

And further take notice, that if you shall pay to the registrar of the court the amount of such debts, or so much thereof as will satisfy the judgment debt, five clear days before the day you are required to appear, you will incur no costs.

Registrar of the court.

To the garnishee.

(Note.—*Rules 5 and 6 of Order 24 to be printed on back of summons.*)

(c) *Ante*, p. 196.

300.

*Return and Certificate from Foreign Court.*No. of Plaintiff.
No. of Warrant.

— V. —

Return to above Warrant of Execution [or Commitment] from the high bailiff of the county court of holden at to the high bailiff at the county court of holden at .

Order XXVI.
rules 2, 3.

	£	s.	d.	£	s.	d.
Gross amount levied or received						
Payments in deduction.						
Man in possession days, on £ , value of goods seized.						
For appraisement fees on £ 						
Paid for stamp						
For fees of sale on £ 						
For rent to landlord						
Extra possession under claim days (actual costs).						
Costs of interpleader ordered by court to be deducted out of the proceeds.						
Net amount paid to the credit of the execution creditor £						

High Bailiff.

I hereby certify that the above charges are correct, and that the sum of £ was paid into court this day of 187 .

Certificate.

Registrar.

301.

Notice by Registrar of Day and Hour upon which Bond to be executed.

Take notice, that I have appointed the day of 18 , at o'clock in the forenoon, at my office, for the and his sureties to execute the bond proposed to be given in the above action.

Order XXX.
rule 1.

[To be added to notice to obliges :—And further take notice that if you have any valid objection to make to the sureties, or either of them, such objection must then be made.]

Dated this day of 18 .

To the plaintiff [or defendant].

Registrar of the court.

302.

*Petition by Person interested in Funds in Court (in lieu of No. 227) (d).*28 & 29 Vict.
c. 99.Order XXXI.
rule 15.

In the matter of the County Courts Act, 1867, and .

In the matter of an affidavit by E. F. of and G. H. of filed the day of 187 .

[State shortly the nature of the trust, as, e.g. :—

Sheweth,

1. That C. D., of , by his will dated the day of ,
(d) *Ante*, p. 254.

bequeathed to the said E. F. and G. H., his trustees named therein, all his residuary personal estate, on trust to pay the dividends and income thereof to his wife for her life, and after her death to divide the said trust funds among his children equally.

2. That the said E. F. and G. H. on the day of 187 paid into this court the £ , being, as they allege, the balance of the said trust funds remaining in their hands at that date.

3. That your petitioner claims, as one of the children of the above-named C. D., to be entitled to one-fourth share of the said trust funds.

Your petitioner prays—

1. That the requisite directions may be given for payment to your petitioner one-fourth part of the said trust funds.

[or 1. That under the will of C. D. late of deceased, your petitioner is entitled for his own benefit for his life to the income of the funds paid into court in this matter by E. F. and G. H. ; your petitioner therefore prays

1. That such income may be to be paid to him for his life].

Where the application is for the income for life only of the trust funds, the persons interested or claiming to be interested in the capital need not be served with the application, unless the court should otherwise direct.

303.

Notice of Day upon which Petition will be heard.

In the matter of
 Orde XXXI. Take notice, that the petition, a sealed copy of which is served herewith, will
 rule 17. be heard at a county court to be holden at on the day of
 18 , at the hour of o'clock in the forenoon, and that if you do not
 attend either in person or by your solicitor at the time and place above men-
 tioned, such order will be made and proceeding taken as the judge may think
 just.

Dated this day of .

Registrar of the court.

To of .

304.

Summons under Section 114 of 9 & 10 Victoria, chapter 95, for assaulting a Bailiff of the Court whilst in the Execution of his Duty.

In the county court of , holden at .
 9 & 10 Vict. In the matter of a complaint made by C. D. of , one of the bailiffs of
 c 95, s. 114. the county court of , holden at , and section 114 of 9 & 10 Victoria,
 chapter 95.

To A. B. of .

You are hereby summoned to appear at a county court to be holden at ,
 on the day of 18 , at o'clock in the forenoon, to
 answer a complaint made against you by C. D., one of the bailiffs of the said
 court, and to show cause why an order should not be made against you, under
 the 114th section of the County Courts Act, 1846, for payment of a sum not
 exceeding five pounds for an assault committed by you on the
 day of upon the said bailiff whilst in the execution of his duty as such
 bailiff [and also for that you did on the same day rescue or attempt to rescue
 certain goods levied by the said bailiff under process of this court].

Dated this day of .

Registrar.

[To be served personally 10 clear days before the return day.]

305.

Notice under Order 32, Rule 8.

I hereby give you notice that the judge of this court has directed me to inform you that your application for assessors to be summoned to assist him at the hearing of the above action is refused, he being of opinion that the appointment of such assessors is unnecessary in the present action. Order XXXII.
rule 8.

Dated this day of .

Registrar.

To of .

306.

Notice of Leave given to defend.

Take notice, that the defendant has obtained leave to defend this action at a court to be holden at , on the day of , at the hour of in the noon.

Bills of Ex-
change Act,
1855.
Order
XXXVII.
rule 48.

The defendant has obtained such leave on the ground set forth in an affidavit, a copy of which is hereunto annexed [and has paid to me the sum claimed by you, to abide the decision of the court] [or has given security for the amount claimed by you, and the costs of this action].

307.

Notice to the Defendant of the Day on which Cause is to be heard upon Leave being given to defend.

Order
XXXVII.
rule 48.

You having obtained leave to defend this action, take notice that the same will be tried at on the day of , at the hour of in the noon.

Bills of Ex-
change Act,
1875.

To the defendant.

308.

Bond under Bills of Exchange Act, 1855.

Know all men by these presents that we, A. B. of &c., C. D. of &c., and E. F. of &c., are jointly and severally held and firmly bound to G. H. of &c. in pounds, to be paid to the said G. H. or his certain attorney, executors, administrators, or assigns. For which payment to be made we bind ourselves and each and every of us in the whole our and each of our heirs, executors, administrators, jointly and severally, firmly by these presents.

Order
XXXVII
rule 49.

Sealed with our seals, and dated this day of one thousand eight hundred and .

Whereas an action under the Bills of Exchange Act, 1855 (18 & 19 Victoria, cap. 67), is now depending in the county court of holden at wherein the above-named G. H. is plaintiff and the above-named A. B. is defendant:

And whereas judgment was signed by the above-named G. H. against the above-named A. B. upon the day of 18 , for £ , debt and costs, the above-named A. B. not having obtained leave to defend the said action:

And whereas the above-named A. B. has given notice of his intention to apply to the judge of the said county court under section 3 of the said act to set aside the said judgment so signed as aforesaid, and to allow him, the said A. B. to come in and defend the said action:

And whereas by Order XXXVII., rule 49, of the County Court Rules, 1875, it is provided that until the judge can hear the application under the said section of the act, execution shall be stayed, upon the defendant giving security to abide the decision of the judge:

I approve this
bond.
Registrar. And whereas the above-named C. D. and E. F. at the request of the said A. B. have agreed to enter into the above obligation for the purpose aforesaid, and the security to be hereby given has been approved of by the registrar of the said county court, as appears by his allowance in the margin hereof:

Now the condition of this obligation is such that if the above bounden A. B., C. D., and E. F., any or either of them, shall pay unto G. H., his executors, administrators, or assigns, the costs of the said application, if the court shall so order, and shall also, in case such application shall be dismissed, pay to the said G. H., his executors, administrators, or assigns, the said sum of pounds shillings and pence, then this obligation to be void, otherwise shall remain in full force.

Signed, sealed, and delivered by the above-bounden A. B., C. D., and E. F., in the presence of

309.

Order for recovery of Tenement.

19 & 20 V1ct.
c. 106, s. 62.

Upon the hearing of this cause at a court holden this day, it is ordered that the defendant do give to the plaintiff possession of a certain situate at on or before the day of 18 , unless the rent in arrear for the said premises, amounting to £ , and the costs of this action be paid into court before such day of 18 .

And it is adjudged that the plaintiff do recover against the defendant the sum of £ for costs of this action.

And it is ordered that the defendant do pay the same to the registrar of this court on or before the day of 18 .

To the defendant.

Take notice that if you do not pay the said rent and costs, or give such possession, a warrant may issue requiring the bailiff of the court to give possession of the said to the plaintiff, and to levy the sum of £ above mentioned, together with further costs.

Hours of attendance, &c.

310.

Reccipt for Money Levied.

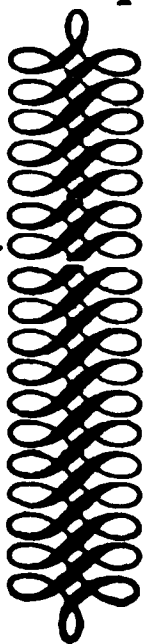
No.

_____ 18 .

No. of plaint _____

No. of execution _____

Amount received.
£ : :



In the county court of _____,
holden at _____.

No.

No. of plaint _____

No. of exccution _____

Received of the above-named _____
the sum of _____ pounds _____ shillings and
_____ pence.

£ : : for _____ R. S. (possession man),
_____ bailiff.

311.

Undertaking in Writing by Defendant to perform Contract.

Employers and Workmen Act, 1875.

No. of plaint.

In the county court of holden at .
 Between A. B., plaintiff,
 and
 C. D., defendant.

Whereas it has been found by this court on the day of 187 ,
 that the defendant had broken the contract for the breach of which he was
 summoned :

And whereas the court would have awarded to the plaintiff the sum of
 £ by way of damages suffered by him in consequence of such breach,
 and would have ordered him to have paid such sum, but that the defendant
 was willing to give security for the performance by him of so much of the
 contract as remains unperformed :

Now therefore I, the undersigned defendant, and we, the undersigned sureties
 [or the undersigned surety], do undertake that the said defendant will perform
 so much of the said contract as remains unperformed, that is to say [*here set
 out so much of the contract as remains to be performed.*]

And I, the said defendant, and we [or I] the said sureties [or surety],
 hereby severally acknowledge ourselves bound to forfeit to A. B., the plaintiff,
 the sum of pounds and shillings, in case the said defendant fails
 to perform what he has hereby undertaken to perform.

(Signed, *where not taken orally*) C. D., defendant.
 E. F., } sureties.
 G. H., }

Taken [orally] before me this day of 187 .
 Registrar of the court.

NOTE.—Where the undertaking is given orally, strike out the words “under-
 signed” where they occur, and insert the word “orally” after “taken.”

312 (in lieu of Nos. 65 and 66) (e).

Notice by Defendant to Third Party.

No. of plaint.

In the county court of holden at .
 Between A. B., plaintiff,
 and
 C. D., defendant.

Order X(a).
 rule 1.

To Mr. X. Y., of [*address and description*].

Take notice that this action has been brought by the plaintiff against the
 defendant [*as surety for M. N., upon a bond conditioned for payment of 20l.
 and interest to the plaintiff.*]

*The defendant claims to be entitled to contribution from you to the extent
 of one-half of any sum which the plaintiff may recover against him, on the
 ground that you are his co-surety under the said bond [or, also surety for
 the said M. N., in respect of the said matter, under another bond made by
 you in favour of the said plaintiff, dated the day of , A.D.].*

*[Or as acceptor of a bill of exchange for 50l., dated the day of ,
 A.D. , drawn by you before and accepted by the defendant, and pay-
 able three months after date.*

*The defendant claims to be indemnified by you against liability under
 the said bill, on the ground that it was accepted for your accommodation.]*

(e) *Ante*, pp. 185, 186.

[Or to recover damages for a breach of a contract for the sale and delivery to the plaintiff of 100 tons of coal.]

The defendant claims to be indemnified by you against liability in respect of the said contract, or any breach thereof, on the ground that it was made by him on your behalf and as your agent.]

And take notice that if you wish to dispute the plaintiff's claim in this action as against the defendant C. D., you must appear at this court on the return day of the summons in this action, a copy of which summons is hereunto annexed.

In default of your so appearing, you will not be entitled in any future proceeding between the defendant C. D. and yourself to dispute the validity of the judgment in this action, whether obtained by consent or otherwise.

(Signed) C. D.

Or,

L. M.,
Solicitor for the defendant
C. D.

[Note.—Replevin bonds now require to be stamped, as 5 Geo. 4, c. 41, referred to in the notes to Forms 183 and 184 (f), is repealed by the Stamp Act, 1870.]

(f) See *ante*, pp. 232, 233.

FORMS OF BOOKS

REFERRED TO IN

ORDER II., RULES 2 (a) AND 17,

And other Rules.

BOOK A.—ORDINARY AND DEFAULT

Plaints, Minutes of Judgments,

Date of entry of Plaint, &c., or Counter-claim.	Number of Plaint, &c., or Counter-claim.		Name, Residence, and Trade of		Miles from Court House.	Particulars of Debt or Claim.	Amount claimed or value of Subject-matter.		Fee on entering Plaint, &c., or Counter-claim.	Fees, Schedule B, (Part 1).			Amount paid into Court before Judgment.	No. of Plaint, &c. (re- peated).
	Ordinary Sum- mons No.	Default Summons.	Plaintiff.	Defendant.			Debt or Claim.	Solicitor's Costs charged on the Summons.		Registrar.	High Bailiff.	Foreign Bailiff.		
		No.	By whom served.				£ s. d.	£ s. d.	£ s.	s.	s.	s.	£ s. d.	

BOOK B.—ORDINARY

Plaints, Minutes of Judgments, Orders,

at a Court holden at

on the

Name, &c. of Plaintiff's Solicitor.	Date of Entry of Plaint, &c., or Counter-claim.	No. of Plaint, &c.	Name, Residence, and Trade of		Miles from Court House.	Particulars of Debt or Claim.	Amount claimed or value of subject-matter.		Fee on entering Plaint or Counter-claim.	Registrar's Fees, Schedule B. (Part 1).	No. of Plaint, &c. (re- peated).
			Plaintiff.	Defendant.			Debt or claim.	Solicitor's Costs charged on the Summons.			
							£ s. d.	£ s. d.	£ s.	£ s.	

BOOK C.—DEFAULT

Plaints, Minutes of Judgments,

Name, &c. of Plaintiff's Solicitor.	Date of entry of Plaint, &c., or Counter-claim.	Default Summons.		Name, Residence, and Trade of		Miles from Court House.	Particulars of Debt or Claim.	Amount claimed.		Fee on entering Plaint.	Fees, Schedule B, (Part 1).		
		No. of Plaint.	By whom served.	Plaintiff.	Defendant.			Debt or Claim.	Solicitor's Costs charged on the Summons.		Registrar.	High Bailiff, Home Court.	High Bailiff, Foreign Court.
								£ s. d.	£ s. d.	£ s.	s.	s.	s.

SUMMONSES, &c.

Orders, and other Incidental Proceedings.

Date fixed for Hearing.	Nature of Defence. Date when Notice of Defence or Leave to Defend, filed.	By whom Jury required.	Appearance.		Folio in Ledger.	Amount of Judgment.			For whom Judgment given.	Order.	Date when Default Judgment served.	Dates. of entering up Judgment by Default; of filing Order in nature of Decree, of filing Order on Interlocutory Proceedings.	Fees on.		Name, &c. of Plaintiff's Solicitor.
			Plaintiff.	Defendant.		Debt or Claim.	Solicitor's Costs, Witnesses, &c.	Total Costs.					Hearing.	Consent or Admission.	
£ s. d.						£ s. d.	£ s. d.	£ s. d.					£ s. d.	£ s. d.	

SUMMONSES.

and other Incidental Proceedings,

day of 187 , before Esq., Judge of the said Court.

Amount paid into Court before Judgment.	Nature of Defence. Date when Notice of Defence or Leave to Defend, filed.	By whom Jury required.	Appearance.		Folio in Ledger.	Amount of Judgment.			For whom Judgment given.	Order.	Date when Order in nature of Decree, or on Interlocutory Proceedings, filed.	Fees on.	
			Plaintiff.	Defendant.		Debt or Claim.	Solicitor's Costs, Witnesses, &c.	Total Costs.				Hearing.	Consent or Admission.
£ s. d.						£ s. d.	£ s. d.	£ s. d.				£ s.	£ s.

SUMMONSES.

and other Incidental Proceedings.

Amount paid into Court before Judgment.	Date fixed for Hearing.	Nature of Defence. Date when Notice of Defence or Leave to Defend, filed.	By whom Jury required.	Folio in Ledger.	Amount of Judgment.			Order.	Date when Summons served.	Date of entering up Judgment by Default.	No. of Plaints, &c. (repeated).
					Debt or Claim.	Solicitor's Costs.	Total Costs.				
£ s. d.					£ s. d.	£ s. d.	£ s. d.				

BOOK D.—PLAINT BOOK (where neither Books A or B are used).

Plaints for Summonses, returnable at a Court to be held at _____ on the _____ day of _____ 187____, and Minute of Interlocutory Proceedings thereon.

Date.	Number.	Plaintiff.	Residence.	Trade.	Defendant.	Residence.	Number of Miles of Defendant's Residence from Court House.	Trade.	Particulars of Debt or Claim.	Amount claimed.	Amount paid into Court before Judgment.	Notice of a Defence.	Fee on entering Plaintiff.	Name, &c. of Plaintiff's Solicitor.
	1									£ s. d.	£ s. d.	*	£ s.	
	2													
	3													
	4													
	5													
	6													
	7													
These additions to be carried to Summary at end of each Month.†														

* In this column can be entered the day on which notice of service or non-service should be given under sect. 29 of 19 & 20 Vict. c. 108.
† These additions will facilitate the making of statistical returns to Parliament.

BOOK E.—MINUTE BOOK (where neither Books A or B are used).

D.C.C.

Minute of Judgments, Orders and other Proceedings at a Court holden at _____ on the _____ day of _____, 187____, before _____, Esq.,
Judge of the said Court.

No.	Plaintiff.	Appear- ance.	Defen- dant.	Appear- ance.	Particu- lars of Claim.	Amount claimed.	Special Defence.	By whom Jury required.	For whom Judgment given.	Amount of Judgment.	Costs.	ORDER.	Fees.		
													Judgment by Consent.	Judgment by Default.	Hearing.
						£ s. d.				£ s. d.	£ s. d.		£ s. d.		
											These additions to be carried to Summary at end of each Month.				
											These additions to be carried to Summary at end of each Month.				

SUPPLEMENT TO DAVIS' COUNTY COURTS.

BOOK F.—DEFAULT SUMMONSES.

Court Fees on entering Judgments by Default.

Date.	No. of Plaint.	Fee.	Date.	No. of Plaint.	Fee.	Date.	No. of Plaint.	Fee.	Date.	No. of Plaint.	Fee.
		<u>£</u> <u>s</u>			<u>£</u> <u>s</u>			<u>£</u> <u>s</u>			<u>£</u> <u>s</u>
	Brot up			Brot up			Brot up			Brot up	
0				0			0			0	
0				0			0			0	
0				0			0			0	
0				0			0			0	

BOOK G.—FEES under Schedule B., not elsewhere entered.

[illegible]

BOOK H.—SUMMONSES FOR COMMITMENT, INTERPLEADER, AND MINUTE OF ORDERS THEREON,
at a Court holden at _____ on the _____ day of _____ 187____, before _____ Esq., Judge of the said Court.

Date.	No. of		Plaintiff or Claimant.	Defendant or Execution Creditor.		Miles from Court House.	Date when Judgment or Order obtained.	Amount of Judgment or Order.		Costs of subsequent Proceedings.	Paid into Court.	Amount not required to have been paid at date of leave of Absence.	Amount for which Summons is issued.		Fee for issuing Summons.	Ledger Folio.	Cost of this Summons and Hearing.	Appear-ance by		Order.	Fee for Hearing.
	Plaint.	Commitment Return.		Name.	Residence and Trade.			Debt.	Costs.				Plaintiff.	Defendant.							
								£ s. d.	£ s. d.	£ s. d.	£ s. d.	£ s. d.	£ s. d.	£ s. d.	£ s. d.		£ s. d.				£ s. d.

BOOK J.—SUMMONSES TO WITNESSES AND JURORS,
returnable at a Court to be held at _____ on the _____ day of _____ 187____.

Date.	No. of Plaintiff.	On whose behalf applied for.	Witness or Juror.			Miles from Court House.	By whom served.	Fee on Summons to Witness.		Conduct Money, or Fee for Jury.
			Name.	Residence.	Trade.			Home District.	Foreign District.	
								£ s. d.	£ s. d.	£ s. d.

BOOK L.--EXECUTION AND COMMITMENT BOOK (WHERE HIGH BAILIFF IS NOT REGISTRAR.)

No. of Plaintiff.	No. of Warrant.	Day and Hour on which Warrant was applied for.	Plaintiff.	Defendant.	Residence.	Miles from Court.	Execution or Commitment.	When issued.	Amount of Debt or Damages, and Costs due.	Poundage for issuing Warrant.	Return.		
											Amount paid into Court, or certified as paid into Foreign Court.	Date of Arrest or Levy.	Minute of other Return than Payment or Arrest, and Date of every Return.
		Day. Hour. h. m.							£ s. d.	£ s. d.	£ s. d.		

BOOK N.—FOREIGN EXECUTIONS RE-ISSUED BOOK.

Date of Issue.	From what Court.	No. of Plaint.	No. of Execution.	Date of Re-issue.	Against whom.	Residence.	Miles from Court.	Execution or Commitment.	Total Amount to be levied.	Particulars of Return.	Mileage.	
											Levy.	Taking to Gaol.

BOOK O.—CASH BOOK.

Debtor.				Cash.				Creditor.			
Date.	No. of Plaint.	From whom received.	For whom paid.	Folio in Ledger.	Amount.	Date.	No. of Plaint.	To whom paid.	From whom received.	Folio in Ledger.	Amount.

N.B.—This Book may be divided into two, one for receipts and the other for payments, where the extent of business in the Court may make it convenient that it should be.

BOOK P.—LEDGER.

No. of Plaintiff.		r.					
		Receipts.	Folio in Cash Book.		Payments.	Folio in Cash Book.	By whom received.
Amount adjudged. Costs paid by Plaintiff. Allowance to Barrister or Attorney. Ditto to Witnesses.							[Each payment to be signed by the person receiving the money either in this Book or the Cash Book, and a receipt stamp affixed where the sum paid is for 2l. or upwards.]
£							
Execution - - No.							

No. of Plaintiff.		r.					
		Receipts.	Folio in Cash Book.		Payments.	Folio in Cash Book.	By whom received.
Amount adjudged. Costs paid by Plaintiff. Allowance to Barrister or Attorney. Ditto to Witnesses.							[Each payment to be signed by the person receiving the money either in this Book or the Cash Book, and a receipt stamp affixed where the sum paid is for 2l. or upwards.]
£							
Execution - - No.							

No. of Plaintiff.		r.					
		Receipts.	Folio in Cash Book.		Payments.	Folio in Cash Book.	By whom received.
Amount adjudged. Costs paid by Plaintiff. Allowance to Barrister or Attorney. Ditto to Witnesses.							[Each payment to be signed by the person receiving the money either in this Book or the Cash Book, and a receipt stamp affixed where the sum paid is for 2l. or upwards.]
£							
Execution - - No.							

BOOK Q.—NOTICE BOOK.

No. of Plaint.	To whom addressed.			Date of Notice.	When posted.	Where posted.	By whom posted.	Observa- tions.
	Name.	Address.	Description.					

BOOK R.

IN the County Court of holden at .
High Bailiff's Return of Summonses on Plaints before Judgment, issued to him returnable
at a Court to be holden on the day of 187 .

No. of Plaintiff.	Plaintiff.	Defendant.	Mode of Service.

Dated this day of 187 .
A.B.,
High Bailiff.

Instructions where Books A., B. or C. are used.

The summaries of fees are to be made up for each month as heretofore.

Registrars' and high bailiffs' fees under Schedule B., upon any proceedings in an action subsequent to the entry of the plaint, and upon all proceedings in chambers, must be entered in the Schedule B. fee book.

When a successive summons is applied for, the case must be re-entered in detail (in red ink), under the original plaint number, and the subsequent proceedings be recorded on the page of the book in use on the day it was re-issued; and a reference thereto be made opposite the original entry of the plaint.

Where either Book A. or Book B. is used.

A fresh page should be commenced with the entry of plaints for each court, and sufficient space be left after such entries for cases requiring to be brought forward for hearing, viz.: adjournments, new trials, default cases when defended, applications, &c., and for the summary of fees.

Proceedings in chambers may be recorded at the end of the book.

Where either Book A. or Book C. is used.

The fee for entering up a judgment by default must be entered on the day it is received, with the number of the plaint prefixed, in the book F. provided for the purpose.

Where Book C. is used.

The default plaints should be numbered consecutively, and, to distinguish them from ordinary summonses, a cypher should be prefixed to each number, thus, D, 01; D, 02; D, 03, &c.

We, George Lake Russell, John Bury Dasent, John Worlledge, Rupert Alfred Kettle and William Furner, being Judges of County Courts appointed to frame Rules and Orders for regulating the practice of the courts, and forms of proceeding therein, under the 32nd section of "The County Courts Act, 1856," have by virtue of the powers vested in us thereby and of all other powers enabling us in this behalf, framed the foregoing Rules and Forms, and we do hereby certify the same to the Lord Chancellor accordingly.

G. L. RUSSELL.

J. B. DASENT.

J. WORLLEDGE.

RUPERT KETTLE.

W. FURNER.

I approve of these Rules and Forms to come into force in all County Courts on the 3rd day of April, 1876.

CAIRNS, C.

GENERAL INDEX

TO

**VOLUME I.—Practice and Evidence in Actions in the
County Courts.**

**VOLUME II.—The Jurisdiction and Practice of the County
Courts in Equity, Admiralty and Adminis-
tration Cases, and in Bankruptcy.**

SUPPLEMENT.—The County Court Rules, 1875 and 1876, &c.

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"they give to Caesar, they give to the subject what appertaineth. It is true
"they are as mixt as our language, compounded of British, Saxon, Danish,
"Norman customs. And surely as our language is thereby so much the richer,
"so our laws are likewise by that mixture the more complete."*—**LORD BACON.**

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